

MEETING OF THE PARLIAMENT

Thursday 6 November 2008

Session 3

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Scottish Parliament

Thursday 6 November 2008

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

Scrutiny Improvement

The Presiding Officer (Alex Fergusson): Good morning. The first item of business is a statement by John Swinney on scrutiny improvement—changes to structures.

09:15

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): This Government's purpose is very clear: we want to create a more successful country with opportunities for all of Scotland to flourish through increasing sustainable economic growth.

In the current economic climate, it is more important than ever that all public services actively contribute towards that purpose. An example of how the Scottish Government, in partnership with local authorities and agencies, is focusing on that is the wide-ranging package of improvements announced last week to help Scotland's planning system support increased sustainable economic growth. This morning, I will set out a range of measures to ensure that scrutiny supports and encourages public bodies to improve the services that they provide to the citizens of Scotland.

The drive to reform scrutiny extends far beyond this Administration. I am grateful to the previous Administration for setting up the independent review of regulation, audit, inspection and complaints handling of public services in Scotland under Professor Lorne Crerar, whose report was debated in the chamber last October. Members endorsed the review's main recommendations and there was cross-party agreement on the need to create a robust but proportionate scrutiny system.

Parliament and bodies accountable to Parliament form a crucial part of that system. I whole-heartedly welcome the interest shown by the Scottish Parliamentary Corporate Body in our plans and the Parliament's bold initiative to draw on the lessons of Crerar and important work by the Finance Committee and the Audit Committee in reviewing the bodies under its wing.

Developing policy to implement the Crerar review was a specific element of our concordat with local government. We have worked very closely with local government on this matter and members and officials of local authorities have

been involved in all the key groups. I also thank the other bodies, including the scrutiny bodies, that have worked with us on this issue since January.

That said, I am determined to take us beyond principles to tangible action. We are making bold choices—the right choices—to deliver an effective and proportionate scrutiny system for Scotland.

Over the past 20 years or so, the public sector has grown in a piecemeal fashion. We are simplifying the vast range of delivery bodies; indeed, we have reduced the number of such organisations by seven. We also have a wide array of organisations that scrutinise service delivery. Although partnership working can go some way in jointly organising scrutiny, it cannot and should not be the only solution.

Our reform of the scrutiny system is a key strand of this Government's desire for a more simplified and coherent approach to public service delivery, including a much clearer role for public bodies. In doing that, we are streamlining decision making and increasing transparency; stopping activity that no longer contributes to the public purpose; and applying much tougher tests to the creation of new bodies. Moreover, just as we have formed a new relationship with local government, this Administration is redefining its relationship with Scotland's public organisations by moving to an outcome-based approach aligned with the national performance framework.

The Government wants to create not only a system of external scrutiny and complaints handling that emphasises excellence in delivery, but a culture of self-improvement within the delivery bodies, which, after all, know the people who use their services. Of course, some level of proportionate external scrutiny will always be necessary to provide independent assurance that services are well managed, safe and fit for purpose and that public money is being used properly.

In June, I committed ministers to a target of reducing scrutiny bodies by 25 per cent, which matches our broader commitment on public bodies. Today, I will set out not only how that commitment will be achieved but how we are making progress on changing how scrutiny is carried out through the work of the Accounts Commission and the action groups that we set up in January.

Since Professor Crerar published his review, much has been done. Back in March, I asked the Accounts Commission to find ways of reducing the burdens on local authorities through the better planning and scheduling of service inspections. I have recently received the commission's first progress report and it is clearly identifying real

opportunities for co-ordinating work to reduce the burden of scrutiny on councils and to improve its impact and effectiveness. The Accounts Commission will continue to report regularly to ensure that real change is delivered on the ground.

In January, I announced the creation of five action groups to produce practical ways of implementing the Crerar recommendations. Four of the five groups have now reported and the fifth will report shortly. Although a formal response to those reports will be published in the near future, I can announce that we are accepting a number of key measures.

For a start, we endorse the vision of simple, user-friendly and broadly consistent complaints procedures across public services, with the Scottish Public Services Ombudsman working with the public sector on designing and implementing them. We agree that local government complaints systems should be a priority for that new approach and that scrutiny bodies should work together and with councils to develop a proportionate and intelligence-led approach to scrutiny based on robust risk assessments. We will move to formalise the independence of bodies that scrutinise services to give the public assurance that their reports and findings are free not only from the influence of those delivering the services, but from political interference.

The key drivers behind the move to simplify the scrutiny landscape are obvious. First, we want to tackle the complexity of organisational structures. Working across structural boundaries can absorb a lot of time that could be spent on speaking directly and listening to and addressing the needs of citizens. Secondly, we want to achieve more outcome-focused, efficient and streamlined public services that provide better value for the public pound.

The changes affect 11 bodies with more than 950 staff and budgets amounting to £59 million. Under the plans, those 11 bodies will be reduced to five. To create a clearer system for handling complaints about public services, the Government would prefer to transfer functions in two areas—complaints about the water industry and complaints from prisoners—to the Scottish Public Services Ombudsman. One result of the streamlining of complaints handling would be the abolition of Waterwatch Scotland, whose complaints functions we would like to transfer to the SPSO. Consumer Focus Scotland, which already promotes customers' views on a range of public services, would represent water customers.

With regard to the Scottish Prisoner Complaints Commission, we would prefer to put its functions on a statutory footing for the first time and to make them part of the SPSO's revised functions. Both

proposals are in line with the complaints action group's recommendation that the number of standalone complaints-handling bodies should be reduced to simplify the process and landscape for users.

However, as the SPSO is a parliamentary body, I recognise that it is not in the Government's gift to transfer functions to it. The Parliament's ad hoc committee, which will be convened by Trish Godman, will rightly want to consider the functions of the SPSO and other parliamentary bodies. We will put our proposals to the committee to allow members to consider how well they might fit with their wider considerations.

We are developing a more integrated role for the prison visiting committees that better reflects modern offender management structures and we are exploring the prospect of linking their functions with those of Her Majesty's prisons inspectorate for Scotland.

We will abolish the Scottish charity appeals panel and consult on where its functions might best sit. Although it is important for charities to have an accessible and cost-effective way of appealing the Office of the Scottish Charity Regulator's decisions, the fact that only a very small number of appeals has been received suggests that that need not be provided by a specialist standalone body. We will publish a consultation paper on future options, but I assure the third sector that the SCAP will remain until a suitable recipient has been found for its work.

We intend to make major improvements to the scrutiny of health, social care and social work services. In future, there will be a single scrutiny body for health services; a single body for care and social work; and a single body concentrating on education and learning for children and other learners.

The new health scrutiny body will bring together the existing functions of NHS Quality Improvement Scotland and the Mental Welfare Commission; take on the scrutiny of independent health care, which at the moment is conducted by the Scottish Commission for the Regulation of Care; and have new responsibilities for reviewing and inspecting performance on health care-acquired infections. The Cabinet Secretary for Health and Wellbeing will make an announcement shortly on that very subject. The new body will ensure greater consistency of scrutiny.

The new health scrutiny body will not only ensure greater consistency of scrutiny, but will give the public a better understanding of standards of performance and delivery across a highly integrated universal public service. It will also put more of an emphasis on the health needs of vulnerable people, including older people, people

with mental health problems and people with learning disabilities.

The single scrutiny body for care and social work will take on the functions of the Social Work Inspection Agency, the functions of the care commission—without its independent health care function—and Her Majesty's Inspectorate of Education's current responsibilities for the inspection of child protection and the integration of children's services.

The new body will consider the links in what should be a chain of support, from how the local authority performs its strategic social work functions right through to how services are delivered to individual citizens. HMIE will maintain its focus on raising educational standards, stimulating improvement and promoting self-evaluation while continuing to ensure that education services work with other services to support the development and wellbeing of all children in Scotland.

The health and social care proposals present a much simplified landscape that will focus on the needs of the individual service user, not the bureaucracies of organisational structures.

The changes that I have outlined affect the scrutiny bodies that report to Government. Parliament has its own commissioners and scrutiny bodies. We have undertaken positive dialogue with the Scottish Parliamentary Corporate Body, and I fully recognise that Parliament should play a leading role in considering its contribution towards improving scrutiny. I am pleased that the Parliament will be invited to consider the proposal to establish an ad hoc committee to consider its relationships with its bodies and how those can be improved, and I look forward to contributing towards its deliberations. Of course, all decisions on legislative change, irrespective of who sponsors the bodies, are clearly for the Parliament as a whole.

We intend to deliver the package of structural reform by 2011. I expect the changes that require legislation to be reflected in legislation that will be introduced next year, either in the public services reform (Scotland) bill, which is due to be introduced early next year, or in other legislation that is relevant to the policy area.

Whatever structural approach we adopt short of having a single scrutiny body—that proposal received little support when we debated the Crerar review last year—scrutiny bodies will need to work together across organisational boundaries to ensure that the needs of individuals and families are met. The work that the Accounts Commission is doing will play an important part in breaking down any barriers that exist.

Finally, there is a further change that will contribute towards our commitment to cut the number of public bodies by 25 per cent. The Mental Health Tribunal for Scotland Administration, which is currently an executive agency, will be merged into the core Scottish Government. That change will help in moving towards a new structure for the tribunal system in Scotland in the light of the Leggatt report and other reports.

The changes that I have outlined will benefit those who deliver services. Crucially, time will be freed up for the delivery and improvement of public services, which will benefit people who use them. Service providers will be responsible for the robust self-evaluation of their activities. A smaller number of scrutiny bodies should support that self-evaluation, but those scrutiny bodies should retain independence and the right to assess the effectiveness of how services are delivered and their quality. Complaints procedures will be simpler and more consistent throughout Scotland. Complaints will be handled better, at a more local level and in a more consistent way, and there will be fewer stages between when the complaint is made and its resolution.

We will work closely with scrutiny organisations to implement the reforms to ensure that they deliver clear benefits. In the short term, there may be some transitional costs as we move towards having a smaller number of scrutiny bodies, but those costs will be offset against savings over time. The savings will contribute to the efficiency gains that are required under the efficient government initiative from the bodies that are directly affected by the changes, and they will be available to support the improvement of services.

The size of the workforce involved in what has been a disproportionate external scrutiny system will diminish as we move to self-evaluation. We maintain our commitment to having no compulsory redundancies. The reduction in the workforce will be achieved through redeployment, natural wastage and, potentially, limited voluntary severance. We will also consider a staged transfer of resources closer to the delivery of services. We will engage with staff, trade unions, local government and other stakeholders to ensure that the changes are well designed and implemented.

Members of the public expect assurances that their services are efficient and fit for purpose, but they want teachers, care workers and other public sector workers to get on with delivering services rather than constantly preparing for the next inspector. I am committed to delivering a real reduction in scrutiny as part of the simplification of public service delivery. The package of measures that we have set in train today is a substantial start.

I am grateful to all our partners for the work that they have done to date. We need to be bold in taking forward the measures to deliver tangible change on the ground for the people of our country.

The Presiding Officer: The cabinet secretary will take questions on issues that were raised in his statement. Around 30 minutes are available for such questions. Not a huge number of members want to ask questions, so there is a little—I repeat: a little—flexibility in times.

I call Andy Kerr to ask the first question.

Andy Kerr (East Kilbride) (Lab): Thank you for that kind invitation, Presiding Officer.

I thank the cabinet secretary for the advance copy of his statement, much of the content of which I welcome, and for his acknowledgement of the work that was done by the previous Administration. I am sure that further details about the proposals will arise during parliamentary consideration of them and the work of the ad hoc committee. As the process develops, it will be interesting to find out whether the cabinet secretary's proposals comply with the recommendations on accountability and governance in paragraphs 10.10 and 10.11 of the Crerar review report, including recommendations 22 to 25. I am not sure that there is the clarity that we would expect at this point for us to examine the proposals.

One key Crerar principle is focusing on the public. How will the cabinet secretary ensure that the public become central and involved in the new form of scrutiny so that that clear principle is followed?

The Crerar report states:

"the scrutiny bodies appear to have different levels of independence from government and ... accountability across the scrutiny sector is neither transparent nor consistent."

With agencies, non-departmental public bodies and, of course, the SPSO retaining scrutiny functions, is the cabinet secretary convinced that he has addressed Professor Crerar's concern about that?

On local government, I note with interest the ideas about complaints systems at a local level. Is the cabinet secretary proposing a uniform and standard system at the local level to allow transparency across local authority areas, or will he allow individual local authorities to have their own systems that are in line with certain principles which are set out by him and the Parliament?

On unintended consequences, the Scottish health council performs a critical role, which is being subsumed within a bigger organisation. What assurance can the cabinet secretary give

that that organisation's role, influence and importance will not be diminished?

Finally, how do the cabinet secretary's proposals fit with our next debate, on patients' rights proposals? There are linkages in that respect that have not been addressed in the statement or the associated documentation.

John Swinney: Mr Kerr mentions that supplementary information that goes into more detail than it was possible for me to go into in my 15-minute statement has been made available. I should have added that.

Mr Kerr has pointed to a number of key issues. I assure him that we are coming from the same place. Simplifying the system of scrutiny to ensure that the interests of members of the public are absolutely central is at the heart of what the Government aims to do. Because of the system's complexity, it can often be difficult for interests of members of the public to be viewed as central. Organisational infrastructures rather than the concerns, or rather the legitimate interests, of members of the public can often predominate. I assure Mr Kerr that the interests of members of the public are central to the Government's approach, whether we are talking about organisations' accountability and governance arrangements, how we establish bodies, how bodies should relate to the Government or their freedom to express their views about the performance of public services. It is in nobody's interest to have organisations that are in any way hamstrung in their ability to express their views on service performance.

On complaints at local authority level, I referred in my statement to enabling the Scottish Public Services Ombudsman to have a more active role in supporting the establishment of more consistent complaints systems that would meet clearer standards throughout the country. As Mr Kerr knows, local authorities are independently constituted bodies, so it would be for them to design the complaints-handling processes. However, I hope that we create a climate in which authorities feel well supported by the Scottish Public Services Ombudsman in securing that.

Mr Kerr made two points about unintended consequences. I am not sure that I follow his concern about the Scottish health council, but I will write to him on that if I feel that any issues need to be explored. On the connection to the next debate this morning, on patients' rights, I return to my first point that it is absolutely critical that we put the member of the public at the centre of the reform and our considerations. The debate on patients' rights strikes me as a perfect illustration of how the Government intends to do that.

Derek Brownlee (South of Scotland) (Con): I, too, thank the cabinet secretary for the advance copy of his statement and the supporting document, which is helpful. For a brief moment, we thought that we had an inadvertent leak from the Government and got terribly excited about that, but we found nothing untoward in the document, which was most upsetting. The Conservatives welcome the broad thrust of the announcement, although we reserve the right to consider the detail when it is produced. We look forward to engaging on the implications of the Crerar recommendations on the parliamentary ombudsmen and commissioners.

The cabinet secretary mentioned the five action groups and said that the report from the fifth one is still to come. He also talked about a variety of statements that his colleagues will make. Can we assume that, with the exception of the fifth action group report and the content of those ministerial statements, we now in effect have the Government's broad approach to the Crerar report? Will he comment in more detail on the Government's assessment of the cost savings that will arise from the move to more proportionate scrutiny? Has any quantification been made of the benefits to service users and the organisations that are scrutinised?

John Swinney: I am amazed by the prospect of inadvertent leaks that can excite the Conservative party on a Thursday morning.

My statement and the subsequent announcements that the Government will make are the components of the Government's response to the Crerar report. As I said, the previous Administration established the Crerar review, which we welcomed and supported when in opposition. We have made progress on the recommendations. I acknowledge that, across the board, the Parliament needs to be comfortable on all the questions that we are exploring. The debate last year on the Crerar review, in essence, allowed Parliament to express its general views on the report and to give the Government guidance on how much parliamentary comfort there would be with our approach. That style lies at the heart of how the Government wants to take further action in relation to the Crerar review. I hope that we can work across the Parliament in doing that and in the legislative process for the forthcoming public services reform (Scotland) bill.

I cannot give Mr Brownlee an estimate of the cost savings, because it is difficult to quantify the benefits or the savings in management and staff time in local authorities. Frankly, authorities have been overburdened by inspectors turning up one after the other. The Accounts Commission has done a good job, in consort with Audit Scotland, in bringing together regulatory bodies to plan better

the inspections that are undertaken at the corporate level in local authorities. We are seeing the fruits of that work in the way in which the process is organised—it is having a significant influence on the design of the best-value 2 approach, which will build on the best-value regime that was introduced into local government in the past. There will be cost savings. Savings will arise from the functions of the bodies to which I have referred, but there will also be consequential savings to local authorities, as the burden of inspection will be made more proportionate as a consequence of my announcements.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): The cabinet secretary highlighted the fact that the Government asked the Accounts Commission to find ways in which to reduce the burden on local authorities through better planning and scheduling of service inspections. However, will the cabinet secretary confirm that all the 3,599 targets in the single outcome agreements with our local authorities have been signed off without any audit? How does that square with scrutiny improvement?

John Swinney: The outcome agreements are focused on providing the clearest possible illustration to members of the public in individual localities of what they should expect their local authorities to achieve as a consequence of service planning, service delivery and public expenditure in each area. The single outcome agreements crystallise very clearly what local authorities aim to do in individual localities and they are a significant improvement in transparency and openness. They are public documents that are available for scrutiny. Members of the public can examine the contents of the single outcome agreements to determine whether authorities have made progress in achieving the aims and objectives. Mr Rumbles should be assured that there is a much greater degree of transparency and scrutiny.

A significant amount of audit activity is undertaken routinely in every local authority in the country. Mr Rumbles will see that the work that is done in the best-value 2 regime will continue to build on the clear lessons and benefits of the best-value system that the previous Administration introduced. As a consequence, public service will improve into the bargain.

Brian Adam (Aberdeen North) (SNP): Will the cabinet secretary spell out a little further how the proposals sit alongside the wider simplification programme on which the Government has embarked?

John Swinney: Earlier this year, the First Minister made a statement to Parliament that set out the Government's approach on the simplification of public bodies. The various steps that were set out in that statement are now being

delivered actively. The public service reform (Scotland) bill, which will be introduced to Parliament in the spring, will give further details and Parliament will have the opportunity to consider those propositions. In our agenda, the improvement in scrutiny sits comfortably with the improvement in the organisation of public bodies.

Jackie Baillie (Dumbarton) (Lab): I generally welcome the cabinet secretary's statement, which is a positive step in the right direction. However, I have three specific points about the new health scrutiny body. First, I return to Andy Kerr's point about the status of the new bodies, because I am not clear that we got an answer on that. The supplementary information does not tell me whether the bodies are to be agencies, non-departmental public bodies or a mixture. I am sure that the cabinet secretary will agree that it is essential that the bodies are independent of ministers and free from political interference.

My second point is about the health scrutiny body's role in the inspection of performance on health care-acquired infections. Will the body operate and report on a hospital-by-hospital basis? Will it deal with health care-acquired infections in care homes? That is an area of substantial and growing concern and I am worried about overlap with the other new body that the Government is to set up, which will be an amalgamation of the care commission and the SWIA.

Finally, I have a question about self-evaluation. Although I understand absolutely the merit in that approach, and although Professor Crerar commended it in his report, equally I am clear that self-evaluation is not enough. Argyll and Clyde NHS Board had two successive self-evaluations of its compliance with its HAI targets. It failed twice and no action was taken at a hospital level. We know the results of that. Does the cabinet secretary agree that self-assessment needs to be backed by monitoring and that strong action is needed at the hospital level to correct the systems failure that resulted in so many patients dying of *Clostridium difficile* at the Vale of Leven hospital?

John Swinney: The status of the new bodies is not confirmed in the statement and there will be further discussion about that point. It is a material point for consideration in the parliamentary process. I commented that we want to ensure that the bodies are free from political interference, so I hope that that gives Jackie Baillie some comfort on the Government's thinking about their status.

Whether there will be hospital-by-hospital reporting will be considered as the Cabinet Secretary for Health and Wellbeing sets out her points in greater detail. We must ensure that the regime is applied effectively across hospitals and care homes.

Jackie Baillie's last point gets to the nub of the issue. It is a serious issue. On the one hand, there will be, and we all know of, examples of unacceptable performance in the public service; on the other hand, there will be examples of supremely effective public service performance. The Parliament will be asked to consider whether it is appropriate to apply the same regime to the elements of the public services that perform poorly and the parts that perform exceptionally. That is where proportionate scrutiny comes into focus. I accept that that is a question for the Parliament to consider, which is why I have gone to such lengths to ensure that we have a broad spectrum of agreement about the point.

I hope that, in the course of considering the issues, we will be able to reassure members. I instinctively think it inappropriate to use a one-size-fits-all inspection regime when we know that some elements of the public services are performing well and, therefore, do not require to be inspected as frequently as others. I readily concede that there is a danger of deterioration in performance within public service organisations, so we need a mechanism that can identify that deterioration and intervene to protect the public interest.

I hope that that is helpful in explaining some of the Government's thinking. The Parliament must be engaged on the issue to ensure that we are comfortable about moving to a more proportionate regime that is driven by self-evaluation rather than comprehensive, one-size-fits-all inspection and scrutiny.

Gavin Brown (Lothians) (Con): I, too, broadly welcome much of the cabinet secretary's statement, quite near the end of which he said that complaints would be handled better, more locally and more consistently. From what he said, I can see how they will be handled more consistently, but it is not immediately obvious to me how they will be handled more locally. Will he elaborate on that point?

John Swinney: I am sure that we all agree that, if the Scottish Public Services Ombudsman has to address a complaint, we have reached a pretty unacceptable point in the relationship between a member of the public and a public body. The impetus of what I announced is to put in place the responsibility that lay at the heart of the Crerar report: ensuring that organisations take responsibility for addressing examples of poor performance long before a member of the public feels the need to go to the ombudsman.

If organisations had a more consistent approach towards local handling of complaints about poor performance and were more engaged in addressing the concerns of members of the public and finding solutions locally, perhaps there would

not be significant increases in the ombudsman's caseload and perhaps some of the complaints would not be so intractable or difficult to resolve once they got to the ombudsman. The key lesson of the Crerar report was that if complaints can be handled quickly at a local level by the people who deliver the services, we will improve the position for members of the public and reduce the time and energy that the public services must devote to resolving complaints but should devote to ensuring better-quality public services.

Nigel Don (North East Scotland) (SNP): What solutions does the minister envisage for charities that need to appeal OSCR decisions, given that he has decided to eliminate the Scottish charity appeals panel?

John Swinney: We have taken the view that the Scottish charity appeals panel is not required simply because it has not had to consider any cases so far and we feel that there is an opportunity to handle its work more efficiently. The Minister for Community Safety will consult on that. I would not want to prejudge the outcome of that consultation, but the third sector and charity sector will be able to participate fully in it.

Tom McCabe (Hamilton South) (Lab): I welcome the cabinet secretary's statement and his emphasis on a consumer-focused approach. Many people have talked that talk; let us hope that we are more successful in achieving it this time.

I note the proposal for a single scrutiny body for health. Will the cabinet secretary expand on his proposals for complaint handling within the health service? In my experience, it is unbelievably difficult for members of the public to pursue meaningful complaints about the health service. Often, they try to pursue them after emotionally trying experiences. They find that very difficult and, all too often, give up because of the complexities of the system that they encounter. It is vital that one outcome of the cabinet secretary's proposals be that members of the public find it easier to pursue a complaint—not out of vindictiveness but to ensure that others do not, in future, experience what they have experienced. Will he give us a bit more information on how his proposals will assist in that effort?

John Swinney: Mr McCabe was the minister who initiated the Crerar review and did a great deal to advance many of the issues that the Government is now taking forward. I warmly welcome the work that he undertook. It sparked the debate and, through the Crerar report, gave the Government a resource that could advance the scrutiny agenda when it came to office.

I agree with Mr McCabe's view that the individual must be at the centre of the process. If somebody has had an unfortunate and

unacceptable experience, the public services must adequately address and respond to their complaint. In my experience, it is difficult for such a complaint to find a straightforward route through the system, and I reassure Mr McCabe that the individual's interests will be at the heart of the process.

I repeat the point that I made to Mr Kerr on the debate that will follow this item of business. We are putting greater emphasis on patients' rights and on ensuring that patients are satisfactorily supported through the challenges that they face. The interests of members of the public who may have had bad experiences will be at the heart of the proposals that we introduce as we design the new bodies and encourage the creation of a new ethos within them. As they are established, the bodies will take those considerations forward.

Andrew Welsh (Angus) (SNP): Having sought over three decades to bring greater public and parliamentary accountability to quangos, I congratulate the minister on his statement and actions. In light of the decision to abolish Waterwatch Scotland, how will he ensure effective customer representation in the water industry, particularly in rural areas?

John Swinney: There is a clear distinction between handling complaints about the water industry—the Government has decided that that task should be transferred to the SPSO, subject to parliamentary consent—and the articulation of the consumer interest, which we want to be part of the work of Consumer Focus Scotland, which is already involved in the articulation and representation of consumers' concerns across Scotland on what they can expect from the public services.

Mr Welsh has raised a serious point. He and I represent adjoining constituencies with similar communities, so the importance of ensuring that people in rural areas can express their views and aspirations about public services is something about which I am deeply concerned. The issues that Mr Welsh raised will be at the heart of the arrangements and remit for Consumer Focus Scotland that we will encourage.

The Presiding Officer: I am grateful to members for endeavouring to take up the full 30 minutes that was available. We have not quite made it, but we move to the next item of business. I will allow a wee while for members to change seats.

Patients' Rights Bill

The Presiding Officer (Alex Fergusson): The next item of business is a debate on patients' rights.

09:57

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): It gives me great pleasure to set out the Scottish Government's proposals for a patients' rights bill for users of the national health service in Scotland. The mutual NHS described in our "Better Health, Better Care: Action Plan", published in December 2007, is one in which patients and staff value each others' experience, knowledge and skills. A truly mutual NHS will be one in which patients have more control over their own health and in which decisions about how our NHS is run are shared by all: patients, staff and planners. At the heart of our vision of a mutual NHS is a set of principles that include dignity and respect, equality, fairness and autonomy—principles that mirror equality and human rights legislation.

On 22 September, I launched a public consultation, which will run until 16 January 2009, seeking the views of the people of Scotland on the possible content of a patients' rights bill. It is intended that such a bill, if enacted by Parliament, will underpin our vision of a mutual NHS. The consultation document sets out our thoughts on why patients' rights and, indeed, responsibilities are important; what rights should be included in the bill; and what difference this will make to patients. The consultation also describes proposals for improving the effectiveness and independence of redress—what patients can do if things go wrong. The bill's aim is to reinforce and strengthen our commitment to place patients at the centre of the NHS in Scotland.

As members will be aware, there are already a number of existing patients' rights and entitlements, but those are not always widely understood or exercised by patients. To be useful to patients, it is essential that a patients' rights bill is easily understood, clearly communicated and simple to enforce. It will therefore include provision for a charter of mutual rights, which will set out how patients' rights will be delivered in practice and will provide a clear framework and guidance for staff. Those rights and their associated responsibilities are relevant to all aspects of health and health care, and to patients, carers, families, local communities and NHS staff. It is intended that they will apply wherever and whenever NHS care is provided.

The consultation suggests that the bill should include patients' entitlements and responsibilities in relation to: equity of access to NHS care; respect, dignity and consideration for the individual, both for patients and for staff who work in our NHS; safe and effective care and treatment; clear and appropriate communication; information about services and care and treatment options; patients' participation in decisions about their individual health, as well as decisions about their health services; privacy and confidentiality of personal information; and independent support and redress.

As I speak to patients and their families across Scotland—I am sure that this experience is shared by other members of the Parliament—they tell me that access to swift and safe treatment remains a key issue, if not the key issue, for them. That is why we propose that a central part of a patients' rights bill will be a legally binding waiting time guarantee that is easily understood by patients and their families. Clearly, when a patient has been told that they require surgery, waiting for admission to hospital can be a time of anxiety and stress. That is why we have decided that that important part of the patient pathway should have a legally binding waiting time guarantee of 12 weeks. The new, legally binding 12-week guarantee will sit within the overall 18-week referral-to-treatment standard that will apply across Scotland by 2011. It means that if someone is diagnosed within, say, two weeks, their overall waiting time should be no more than 14 weeks. On the other hand, in the small number of complicated cases where diagnosis and decision about treatment may take longer than 18 weeks, a patient will still know that, once diagnosis is confirmed, a long-stop guarantee of treatment within 12 weeks will apply. This will mean that patients will be fully aware of what the waiting time will be following diagnosis and will have certainty that it will be delivered. Of course, within that timeframe and within any waiting time guarantee, clinicians will continue to have the flexibility and freedom to set the clinical priority that is most appropriate for their patients, particularly those requiring urgent treatment.

The new proposal is all about providing clarity and certainty to patients. Should an NHS board be unable to meet the proposed waiting time guarantee, it will be required to take steps to ensure that swift treatment is provided elsewhere—for example, in another NHS board area, at the Golden Jubilee national hospital, or elsewhere in the United Kingdom.

To help us deliver on the waiting time guarantee, the Government has decided to commit an additional £270 million over the next three years to allow boards to take action and redesign services

in a way that allows the ambitious new target to be met.

Mary Scanlon (Highlands and Islands) (Con): Will that include using spare capacity in the private sector to meet the waiting time guarantee?

Nicola Sturgeon: Boards are already able to use existing capacity in the private sector to meet waiting time guarantees if they are unable to do so from within their own capacity. There is nothing in the proposed patients' rights bill that would seek to change that position.

In addition to the provisions on waiting times, the bill will do a number of other things. It will acknowledge that Scotland is a socially and culturally diverse society and that patients' rights apply across that diversity, and it will require health services to provide accessible and appropriate services that are responsive to the individual needs, background and circumstances of people's lives. People have the right to the support that they need to access health services—for example, access to an interpreter or to patient transport. Patients also have a right to expect health care services to be provided with care, skill and competence in a safe environment. We know that, while the care provided in NHS Scotland is already of a high standard, we can always get better. That is why we have set up the Scottish patient safety alliance. The alliance supports staff to improve steadily the reliability and safety of health care services and ensure, crucially, that we learn from incidents that have safety implications where and when they occur.

A patients' rights bill will underline the critical importance of communicating with patients in a clear, accessible and appropriate way. We know from reports from the Scottish Public Services Ombudsman that communication can and sometimes does break down at any stage of the patient journey. Patients should have a right to the support of a family member, interpreter, advocate or other independent supporter to help them understand the implications of the options available to them and help them express their views.

Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): How will that tie in with the issue of remoteness and distance, which can be crucial in determining whether family members can join in and help?

Nicola Sturgeon: That is an important point. As I have said on previous occasions in the chamber, patients should have the same rights in the health service regardless of where in Scotland they live. That should apply as much to advocacy and support as to the range of other rights that I have mentioned.

By April next year, we intend to introduce a health information and support service that will bring together quality-assured local and national information from the NHS, the voluntary sector and other sectors. Patients and their families will be able to access the information online, by telephone and in their local high street. Every household in Scotland will receive an easily understood report about their rights and responsibilities, local NHS services and how well their NHS board is performing and engaging with the community. If the proposed bill is enacted, all NHS boards will also be required to designate independent patients' rights officers to help patients to understand and access their rights.

Most people who seek redress after something has gone wrong want an explanation or apology and an assurance that lessons have been learned, but there are times when financial compensation is appropriate. At present, generally patients can receive compensation only when they can establish negligence through a legal process. A no-fault compensation scheme could be simpler than existing processes and could support the development of the concept of a mutual NHS, as well as a positive feedback and learning culture, without the need for recourse to the courts. As a Government, we consider that no-fault compensation is the way forward for the NHS in Scotland, but we recognise that further work is needed on the practical implications and possible costs of such a scheme. We will consider the responses to the consultation before making any firm decision on future arrangements.

The proposals that I have outlined are by no means exhaustive. In the coming months, following full consideration of the responses to the consultation exercise and further debate in the Parliament, we plan to introduce legislation in the form of a patients' rights bill. I believe that such a bill will have an impact on every part of the NHS in Scotland. The Government's aim is to deliver a truly mutual NHS that respects the rights of patients and NHS staff and allows them to work in partnership to deliver a world class service. I believe that that is in line with the founding principles of the NHS when it was introduced 60 years ago and that it is right for the future of patients in Scotland.

10:07

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): I welcome the opportunity provided by this morning's debate. There will surely be plenty of political point scoring elsewhere today so, perhaps unusually, I will set that aside. Instead, I will explore concerns about the proposals and make constructive and helpful suggestions on what further work could be done to

ensure that the legislation that is introduced will be worth while.

My starting point is that I am generally supportive of a rights-based approach. In any public service, people should know what is to be provided and what level of service they ought to expect. They should also be able to be involved in decisions that affect them and, of course, they should be able to seek redress when things go wrong. However, having worked for many years for a rights and advocacy organisation and developed a charter of rights for children in care, I can also foresee where difficulties will lie. We must avoid passing legislation that makes no difference to the patient or, worse still, simply creates new layers and levels of costly bureaucracy. That said, I am generally sympathetic to the cabinet secretary's aim of a mutual health service that encourages people to feel that it is genuinely their service.

However, there is a difference between taking ownership of how the health service is run and being involved in our own health care. For many patients, the last thing that they want when they desperately need treatment is to be concerned with the structures of the NHS, its complaints procedures and how they can seek redress at that point in time, but they will want a real say in the options that are available to them for treatment.

One point in the consultation document that the cabinet secretary mentioned is the proposal for a charter of mutual rights. Can she explain in more detail—perhaps later in the debate—how that is intended to work in practice? Will the charter simply be the list of existing rights that are outlined in the document, with the addition of the waiting time guarantee, or will it be something broader? Will it encompass rights across a wider range of health provision? Will it be legally enforceable as part of the process of ensuring that patients have rights under which they can seek redress? That is an important point because, in my view, a charter that is simply a list under which there is no redress would not be worth anything other than, literally, the paper on which it was written.

Although the proposals on the waiting time guarantee build on what the previous Administration did and include much that we can support, we have some concerns about whether legislation is the only way to ensure that the waiting time guarantee is met. It is likely that redress will be sought in only a few cases, so we need to consider the issue of proportionality. Do we need legislation on the waiting time guarantee or are there other ways in which it could be enforced? We will need to discuss that issue during the course of the bill. Another concern is that a range of patients would not necessarily be covered, including those with mental health

problems, who I am sure members will mention during the debate.

Giving patients the right to go elsewhere in the UK or Europe sounds good in principle, but may not work in practice for all, so we need to explore that proposal in a bit more detail. People with family commitments, those from vulnerable groups and elderly people may feel unable to exercise such a right. For some vulnerable people, the prospect of a hospital admission is frightening enough without the thought of being away from family and friends or travelling into the unknown. We need to ensure that it is not simply the affluent and the articulate who are able to exercise such a right, with others perhaps taking the view, "I'll just leave it for now, thank you very much, and wait my turn on the list."

The consultation document makes much of access to independent support and redress. As Tom McCabe and others pointed out to the Cabinet Secretary for Finance and Sustainable Growth during this morning's statement, patients already have a number of ways to complain, but it can be quite difficult for people to negotiate their way through those in deciding whether they should complain to their local NHS board, seek support from independent advice, approach the SPSO or seek legal redress. We need to hear a bit more about how the proposals that John Swinney outlined this morning will fit with the bill. I look forward to hearing more on that.

The consultation paper suggests that boards should be proactive in introducing the patients' rights officers to which Nicola Sturgeon referred, but those need to be adequately funded if they are to be meaningful. Will there be statutory provision for patients' rights officers? Will there be funding to ensure that they are available? From my experience of dealing with children's rights, I know that non-statutory posts tend to be the first to be hit when funding is tight or difficult decisions need to be made. The paper also mentions new approaches, including local resolution, but provides little detail on what those should be. I believe that there is an opportunity to explore more fully how mediation could be offered and used, but we need to understand who will provide such mediation, what training will be given and how it will be funded.

As the consultation paper states—and as the cabinet secretary has repeated—people often want just an apology or explanation but there will be some cases in which financial compensation is appropriate. I generally welcome the proposal for no-fault compensation, although I recognise that it would involve some difficulties, which were outlined by a report back in March 2003 that considered that and other issues in the health service. Rather than simply wait for the outcome of

the consultation, the cabinet secretary should consider setting up an expert group to consider the previous work in detail, identify the issues and begin to consider proposals to put the idea into practice. Unless such proposals are made as part of or in the context of the proposed patients' rights bill, we will have a pretty thin bill, which will focus only on the waiting time guarantee and the means of legal redress and will not take a wider view on no-fault compensation.

Mutual responsibility is important. All members agree that staff should not be physically or verbally abused. I want to ensure that the cabinet secretary intends to continue to work with the trade unions on the issue.

The cabinet secretary talked about patients' dignity. The Royal College of Nursing is calling for consideration of patients' dignity to be an essential part of all policy making, to ensure that in all decisions consideration is given to whether the proposed course of action would add to patient dignity.

Breakthrough Breast Cancer identified concern about what it would mean to make patients legally responsible for

"seeking and using information appropriately to support their own health".

We need to pursue in more detail that statement in the consultation paper. What exactly does it mean? Similarly, what would the proposal to give patients responsibility for heeding lifestyle advice mean in practice? Who would decide what lifestyle advice was appropriate and whether it had been heeded appropriately? I sound a note of caution: it might be harder for patients in vulnerable and disadvantaged groups to take on board lifestyle advice that the rest of us perhaps take for granted.

The Long-Term Conditions Alliance Scotland has called for consideration of and reference to transitions from children's services to adult services and from adult services to elderly care services. During such transitions people can be at their most vulnerable. The matter is worthy of consideration. The alliance also asked how the bill's provisions would be incorporated into training and how its effect would be monitored, which is particularly important in light of John Swinney's statement this morning.

The debate gives us a useful opportunity to consider patients' rights. A key issue is how we make the Government's aims work in practice. It is not yet clear to me how the Government's wish to

"create a clear legal framework of rights for patients"

fits with its desire to

"avoid encouraging a culture of blame or litigation."

We need to understand the Government's intentions in more detail. There is understandable concern that hard-pressed health boards might be forced into taking cash from the front line to put the new arrangements in place, so I will want to give close consideration to the bill's financial memorandum.

The debate is important and I hope that we will hear more from the cabinet secretary. All members want patients to be at the centre of the NHS in Scotland. We all want to ensure that everyone gets the appropriate treatment at the appropriate time.

10:17

Mary Scanlon (Highlands and Islands) (Con):

The debate is useful. I was interested in Cathy Jamieson's comments on the unintended consequences of the Government's proposals and I will consider other unintended consequences.

The Conservative Party introduced the first patients charter, in 1991. The charter was revised in 1995 and was revised again, by the Labour Party, in the late 1990s. Patients' rights and responsibilities are not new; what is new is the legal recourse that would be enshrined in the proposed bill—if members can find that in the consultation paper. Where there are rights, which we welcome, there must also be responsibilities. Jackson Carlaw will talk about patients' responsibilities.

The Scottish National Party's manifesto contained a commitment to introduce not only a patients' rights bill but an NHS redress bill, which would

"give patients an alternative to pursuing a medical negligence claim by introducing a right to redress without having to go through a lengthy legal battle."

The NHS redress bill was intended to

"replace the current NHS clinical negligence scheme with a no-fault system of compensation".

Conservatives are committed to a lighter touch in legislating, so we could accept two bills that were rolled into one. However, we question whether legislation is needed at all, as does the Labour Party.

The consultation document contains 79 paragraphs, but only paragraphs 68 and 69 mention no-fault compensation. If the consultation exercise does not invite people to give their views on no-fault compensation, no one can be expected to do so—ask no questions and you will get no answers. The paper says:

"It is possible that there may be cases in which financial compensation should be paid without the need to go through such a legal process ... We therefore favour no-

fault compensation as the way forward for the NHS in Scotland".

However, I sense another SNP U-turn. A proposal that might have sounded good in the manifesto and at the hustings is disappearing when the reality check kicks in.

The proposed patients' rights bill must be underpinned by a clear definition of patients' rights in every sector. It cannot be right to introduce waiting time guarantees in relation to some conditions but not others. In that regard, I use again the examples of mental health services, infertility treatment, drug and alcohol services and physiotherapy. Many general practitioners do not bother to refer patients to physiotherapists because the waiting lists are too long and they think that patients can pay for private treatment.

It is proposed that patients will be able to seek redress if the waiting time guarantee cannot be met. According to paragraph 60:

"feedback will be actively encouraged. This will be used to explore the best approach to quick and effective means to resolve any problems patients may encounter when using health services, and to ensure effective redress where patient rights are not met. The feedback will also be used to make changes and improvements in the way services are delivered".

I thought that that was already happening. Where is the mention of legal redress? I worked until 8 pm last night and I had to ask a few colleagues whether I had missed something. Is the proposed legal guarantee simply an assurance on feedback and resolution, as paragraph 60 suggests? What legal implications will there be if the waiting time guarantee is not met? I would have thought that patients have a right not to become infected during a stay in hospital, but it is not clear what legal redress a patient in such a situation would have. Could they sue? If a patient died as a result of an infection, would the family have more right to sue the health service than is currently the case? Will the proposed new arrangements bring benefits for patients?

Christine Grahame (South of Scotland) (SNP): Will the member give way?

Mary Scanlon: Not now.

What would happen if a clinician refused to prescribe a cancer drug that a patient wanted?

I want to talk about patients' involvement in decisions about their care. Like the RCN, we all want patients to be treated with respect and to be accorded dignity. None of us wants to hear about cases such as the ones that were described on "Good Morning Scotland" today. It says in the consultation paper that patients' views

"will be given the same level of consideration as clinical opinion when coming to decisions about their care and treatment."

A patient might decide not to have further treatment, despite the best clinical judgment. As it says in paragraph 53 of the consultation paper, the bill will enshrine a patient's right to

"withdraw consent or refuse further treatment, even if previous consent has been given to the treatment or procedure".

A huge amount of clarification is needed in that regard. If a patient died because they had refused further treatment, would their death fall into the category of voluntary suicide? If a clinician supported a patient's right to have no further treatment and the withdrawal of treatment led to the patient's death, could it be argued that there had been a case of assisted dying? I ask the question with the best of intentions, because the issue has been raised in the Parliament. More clarity about the Government's intentions and greater scrutiny of the proposed bill's unintended consequences are needed in relation to paragraph 53 and other aspects of the consultation paper.

My final point is that, in considering rights and responsibilities, we must remember the rights of NHS staff. Our national health service may be the caring profession, but it is not always too caring about the management of its own staff. I ask that all NHS staff be treated with respect and dignity by their employer, particularly in relation to employment rights, human relations and personnel management. Far too many staff are suspended in the long term without any proper support, dignity, respect or hope of getting back to work.

10:25

Ross Finnie (West of Scotland) (LD): The cabinet secretary stated at the outset that she would make the case for a patients' rights bill, and she helpfully set out some of the guiding principles that would underpin such a bill. She made particular reference to reinforcing and strengthening patients' rights and raised the important question of additional clarity. She referred to the charter, which is set out in the consultation document, and talked about entitlements and responsibilities. She then spoke about the new legally binding waiting time guarantee, access to information and no-fault compensation.

However, I was disappointed that the cabinet secretary did not devote any time to the issue that Cathy Jamieson referred to: the tension between having a clear legal framework of rights and possibly entering into a culture of blame and resort to litigation. I believe fundamentally that if we are to make the case for having patients' rights in a bill, we need the Government's view on how that tension is to be resolved.

Liberal Democrats have no difficulty in agreeing with the Government—as I suspect most members will—that the NHS needs to embrace more explicitly the principles of mutuality. Equally, my party has no difficulty in supporting, for example, the RCN's call to put patient dignity at the heart of health policies, all of which should be dignity proofed. I also have no difficulty with the call by Breakthrough Breast Cancer for patients to be provided with sufficient information

“to keep them informed at every stage of treatment and also in the decision making about their care specifically in terms of who will treat them and where.”

The case put by the Long-Term Conditions Alliance Scotland about the need for patients' rights during transition, from child to adult or adult to older people's services, is also well made. Patients have the right to know how and at what level or standard care should be delivered. I share Mary Scanlon's view that staff also have the right to know what is expected of them in delivering care to that level and standard and that the NHS, in its capacity as both an employer and provider, must set out how it will give effect to the rights of patients and staff within the policy framework of the Government of the day.

As I said, I discern no disagreement among members about the need for patients' and staff rights and obligations to be stated more expressly. However, neither do I discern unanimity about how best that is to be achieved. In particular, the case has not been made for incorporating several of the elements in law.

Liberal Democrats draw a distinction—which we regard as important and not merely one of semantics—between, on the one hand, rights granted to patients of the NHS by this Parliament and enforceable in law and, on the other, entitlements granted to patients by the NHS, perhaps by means of a charter, and enforceable through executive action by the NHS.

That is an extraordinarily important distinction, which is why I was disappointed that the cabinet secretary chose to tell us only about the elements of these important rights about which I have heard not a single disagreement. I am not a betting man, but I am almost prepared to wager that I will not hear dissenting voices about the range and extent of these rights as the debate progresses—I will be astonished if I do. What is not clear is what exactly we need to do.

I do not think that it is necessary or appropriate for all of the rights and obligations in the extensive list that the cabinet secretary articulated earlier to be placed on the NHS, enshrined in statute and therefore enforceable in law. As the BMA points out

“The NHS already has a Patients' Charter which has been commended by other countries. Why do we need to enshrine that in law?”

I can see a case for improving and extending the charter, but I still think that the BMA makes a fair point. Indeed, it illustrates its point well, saying:

“If we are looking at legally binding waiting times we need a system that takes into account the whole range of services, not just the ones that are easy to count. You can't easily measure treatment in some areas and we hope this does not create winners and losers. It will be interesting to see how they propose to make this legally binding.”

I welcome the debate in the same way as I welcomed the consultation paper. However, it is clear that, although a degree of unanimity is emerging on the range and extent of rights that should be accorded to patients and on the fact that they probably need to be strengthened further, the case has not been made for enshrining the majority of them in statute and therefore giving them the full force and effect of the law. If we are to progress further, we need to devote much more time to that issue.

We must consider three elements: the range of rights; how best they might be given enforcement; and which of the rights might properly be dealt with outwith the framework of the law and which—if any remain—might properly be incorporated in legislation. That is the Liberal Democrat plea to the Parliament: we need to be satisfied about those questions before we proceed to a bill.

10:32

Christine Grahame (South of Scotland) (SNP): As a former lawyer, I thought that the speeches by Ross Finnie and Cathy Jamieson were very thoughtful. There are issues to explore. If we are going to enshrine rights in statute, we must consider whether they are enforceable and not just of paper value.

There is much that we will agree on: the announcement on waiting time guarantees; recognition of the diversity of our population; the issue of suitable transport raised by Jamie Stone, which is particularly important in rural and remote areas; and the significance of communication with people. Issues of communication are often at the beginning of problems that unravel in the health service.

The no-fault compensation scheme will be complicated. I was listening to the comments on that, and with my background I can see that there may be issues with its interaction with common-law rights in negligence cases. No-fault compensation will not always be appropriate; some cases will require to be taken to court to test the liability and degree of negligence and perhaps to change what happens generally in our NHS.

Some of Mary Scanlon's points on infection were off the mark because the common law of negligence will still exist. If somebody goes into hospital and does not receive the professional care that they ought to, the test of the law will still be there. There will still be the common law, although people may have the option of going down the statutory route. We require to explore that, as was mentioned earlier.

Mary Scanlon: My question was what difference will the bill make to the current situation.

Christine Grahame: As I understand it, patients will have statutory rights and options, but there will still be the common law. If someone went down the route of no-fault compensation, they might have to take the option of not proceeding to court—they could not do both. However, the issues are complex, which is why we must tease them out at this stage of the debate and at stage 1 of any bill that comes before, I presume, the Health and Sport Committee. Some rights might supplant others, and there will be a choice because some rights will be additional to common-law rights.

I want to focus on complaints in the NHS, which is an issue that often crosses my desk and the desks of other members. I completely support Cathy Jamieson's point about complexity. This is about those people who are not articulate or determined. Professionals are all very articulate and can, I am sure, assert their rights in the NHS, but that is not true of the elderly lady who has Alzheimer's, the person who has a mental health problem, someone who has learning disabilities, or someone who is just shy. For a variety of reasons, all those people will not find it easy to complain.

It is not just about the process and the system; people must think that they are entitled to make a complaint without fear of retribution from staff. There might not be retribution, but patients might feel that there could be some comeback, like them not getting a cup of tea brought to their bedside if they complain, so they lie there and say nothing. I have issues such as that.

One bad case in a hospital is one bad case too many. Recently, the papers reported the case of an elderly lady with Alzheimer's who was left in a chair from which she fell and broke her hip; the press are saying that she came home in a much worse state. It is alleged that, because she has Alzheimer's and could not communicate with staff, she was not given proper treatment and, as a consequence, her whole life has been made miserable, as has that of her husband, who is in his late 80s.

There was another recent case of a woman of 64 who was given a needless hysterectomy when she had terminal cancer because there was a 15-

day delay in her receiving a magnetic resonance imaging scan to determine whether an operation was necessary. That complaint was upheld by the Scottish public services ombudsman. The consultant gynaecological oncological surgeon who advised the ombudsman said that the case was "quite disgraceful".

Those are unusual cases, but they should never have happened. When Richard Simpson and I recently went on a fact-finding mission for the Health and Sport Committee, we met a young woman who self-harms who told us that she does not go to accident and emergency because of the way she is treated. People there give her the impression that she is wasting their time because it is her own fault. That woman has all sorts of issues, but she will not refer herself to A and E. If that is happening, it is quite simply wrong.

In the current year, NHS Scotland has received more than 7,000 complaints, which is much the same as the number in previous years. Of those, 66 per cent were about staffing and treatment, which is a huge percentage, and 60 per cent of them were upheld. We are looking at a figure of something like 4,000 complaints being upheld in whole or in part. Those are the complaints that completed the journey, and while they might not all involve cases as dramatic and horrendous as some of the examples that I gave, they are too many.

I would welcome it if we could to get to the stage where anyone sitting in a hospital ward, for whatever reason, who cannot take the lid off their cup of tea because they do not have strength in their hands knows that someone will come and help them, or knows that, if they are not helped, they can say something about it without feeling that they are making themselves more vulnerable.

That said, if patients have rights, they also have obligations, for example to keep their appointment or to tell the hospital if they cannot keep their appointment so that they do not waste time. Our society is under an obligation to treat our national health service staff with respect. I am talking not just about the consultant who comes round with his happy band of eager students and automatically gets respect; I am talking about everyone who might pass the end of the bed, including the cleaner, the porter and the lady who brings the jelly and ice cream for the patient's sore throat. They all deserve respect, and I hope that the NHS's culture will change in an atmosphere of mutual respect. That is the point I want to make most of all.

In some respects, I agree with Ross Finnie: legislation can be a heavy tool and is not always necessary. More than anything, what the NHS needs is a culture change on both sides of what should not be a divide, so that patients feel that

they are being cared for as individuals, not just as an elderly person, a pregnant lady or someone with mental health problems, and the staff feel that they are there not just to earn their wage but because they have a vocation that society values in all kinds of ways that are not measured by a pay packet.

10:40

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I welcome the opportunity to discuss patients' rights today. As our health service develops to better meet all our needs, it is right that we take the opportunity to explore how best health care services can serve independent and individual patient needs. That is what people should expect from the health service 60 years on, and we are right to have the debate.

I am sure that we all agree that it is vital that we remain committed to the founding principles and values that underpin our national health service, to ensure that it remains a national service, but we must move with the times to ensure that it meets the needs of the people it serves, and that it does so by meeting patients' expectations and using modern technology and communication techniques to ensure that patients are guaranteed a patient-friendly and customer-friendly experience in all their dealings with it. We live in times when people want to have more say in how their services are delivered, whatever those services might be. Patients deserve and want more say over how their local services are designed and run, and if politicians want to respond to that, we must put the money up front to deliver it.

People tell me that their most important priority for the health service is to improve the patient journey, and to strive always to improve final outcomes for people. I am sure that the opinions of people in Cumbernauld and Kilsyth are no different from those of people throughout Scotland. People are saying clearly that we should work to improve patients' rights, but that the resources to do so should not come from existing health service budgets; there should be additional resources. I hope that the money that the cabinet secretary announced will be enough to meet that need.

Members know that I support the principles of patients' rights, as I am sure we all do. We can ensure that we meet individual needs only through supporting all health care sectors throughout Scotland. Health visitors, community nurses, pharmacists and other allied professionals all have a vital role to play in delivering the best and, perhaps, most personal care and support to patients. I urge the Scottish Government to ensure that any charter enshrining patients' rights in Scotland enables full use of the thousands of

talented and well-trained staff that the NHS has, and from whom patients benefit every day. We do not want to see money taken away from front-line patient services to pay costly legal fees; that would not be the priority of the people I represent. Therefore, the cabinet secretary must make it clear how the provisions of the proposed patients' rights bill will be incorporated into the training and education of all health care staff.

More than a year ago, the cabinet secretary pledged that the Scottish Government would consult on patients' rights, including legally binding waiting times, with a view to legislating on the guarantees in the later years of the current parliamentary session. We have all seen the consultation document, but from the discussions I have had, and from the debate this morning, it seems that we are not much further forward. It will be interesting to see what the outcomes of the consultation bring, and whether we really need legislation. Some of the things in the consultation document have already been done and we would expect any caring professional to deliver in the way described.

I move on to how my constituents might be affected. We have a national health service, and people expect to have access to services at the same level throughout Scotland regardless of where they live. My constituency is within the boundaries of NHS Lanarkshire and, for many years, people from Cumbernauld and Kilsyth have been able to access services delivered by NHS Lanarkshire, NHS Greater Glasgow and Clyde and NHS Forth Valley. On behalf of my constituents, I want a guarantee that we will continue to be able to choose where we are treated. If my constituents need acute health care, will they be guaranteed access to Glasgow hospitals? Will my constituents have access to the new Larbert hospital? That was the case and I want a guarantee that it will continue to be the case.

Nicola Sturgeon: Will the member take an intervention?

Cathie Craigie: I am happy to take an intervention if the cabinet secretary wants to make the position clear.

Nicola Sturgeon: I make it absolutely clear that nothing in the proposed patients' rights bill would change any of the rights that patients already have. It is important to stress that point.

Cathie Craigie: I am happy to hear that clarification. Nevertheless, I assure the cabinet secretary that changes have been made, whether by design or because of budgetary restrictions.

What will happen to the rights of my constituents who have, in the past, been able to access obesity services in Glasgow hospitals? At the moment, people are being denied access to those services

because they live outwith the Glasgow boundary. That is not delivering a national health service, in my opinion or in the opinion of my constituents who are not being treated with dignity and respect and who urgently need to be treated at the clinic in Glasgow. We must ensure that that practice does not creep in in other areas.

The consultation document talks about treating people with dignity and respect. It also talks about providing clear access to the services that people need. We have all been sent a briefing paper this week from the Royal National Institute for Deaf People Scotland, which sets out the specific issues that people who are deaf or hard of hearing face every day. They have difficulties in accessing health services and in ensuring that communications come to them in a clear and understandable form. They have difficulties even when they are sitting in waiting rooms. The normal practice is for the health care front-line service managers or receptionists to call out people's names, but if someone is deaf they cannot listen out for that call—they have to rely on someone being with them or the staff in their local health centre knowing to alert them when they are called to see their doctor. It is important that all NHS staff are trained to communicate with people who have all levels of additional communication needs. A priority in any changes that we make should be to ensure that local general practitioner services are aware of the needs of people from the deaf community.

Another area—

The Deputy Presiding Officer (Trish Godman): You should be finishing now, Ms Craigie.

Cathie Craigie: The cabinet secretary is aware of the differing waiting times for treatment by audiologists. I hope that that will be addressed.

I hope that people will engage with the consultation document and that the cabinet secretary and the Government will listen. It is important that we get the services right, so that everyone's needs are met and we do not waste money on costly legal fees.

10:48

Michael Matheson (Falkirk West) (SNP): I am sure that all members are rightly proud of our NHS and the dedication that its staff demonstrate daily and hourly in ensuring that it serves the people of Scotland as effectively as possible. In the past 18 months, the Government has ensured that the underlying principle of the NHS being free at the point of delivery has been extended further with the abolition of prescription charges, the ending of paying for parking at hospitals and the move away from private finance initiatives and the difficulties

that they can cause in the NHS setting. The idea of a patients' rights bill sits well with the philosophy behind what the Government has set out to achieve in the past 18 months.

However, over the past 18 months—in particular, since I joined the Health and Sport Committee—I have, in dealing with a number of the health professional bodies, been struck by how often the rights of patients are largely overlooked in those bodies' eagerness to promote themselves. Given the vested interests of the different professional organisations in our NHS, I understand that they have important issues to address, but when I am in dialogue with them, I often feel that they do not recognise that the NHS not only exists for the people of Scotland but belongs to them. It is not an extension of any one professional body or collection of professional bodies, and it does not belong to any political party—the Government of the day is merely the custodian of the NHS. There is an issue around the vested interests within the NHS and the way in which the professional bodies within it conduct themselves at times. Enshrining patients' rights more visibly in the law could help to address that.

A good recent example of vested interests making their voices heard by the Parliament is the way in which the NHS boards have been desperate to ensure that the Health and Sport Committee and the Government are aware that they oppose the idea of having elected representatives on elected health boards. It must be the first time all the health boards have been singing from the same hymn sheet in the evidence that they have submitted. However, when I have discussed with my constituents the possibility of their being able to elect representatives to their health board, they have been keen on the idea. It is therefore important that we are prepared to enshrine the rights of patients in law in order to keep in check some of the professional self-interest that can arise within the NHS.

I agree with Cathie Craigie that the NHS must move on because society has moved on. The days have largely gone of a doctor or nurse telling someone what treatment they are going to receive and how things are going to be done and the patient just accepting that, although there is a generational issue—I do not mean to be ageist—in that younger people are probably more assertive in ensuring that their rights are exercised. Christine Grahame does not appear to agree with me, but that is my experience. We believe in the principle of having a written constitution for our country, and a bill that enshrines patients' rights within the NHS is entirely consistent with that.

Like other members, I receive complaints from my constituents that tend to focus on the lack of communication in the NHS and, at times, the lack

of respect that is shown to patients and their families. They also focus on the failure of parties within the NHS to take their concerns and views seriously when they are expressed. I agree with Christine Grahame that one of the biggest challenges that we will face in ensuring that a patients' rights bill is effective will be in changing the culture in the NHS.

When the Freedom of Information (Scotland) Bill was passed, it was noted that one of the biggest challenges that we would face in ensuring that people could assert their rights effectively under that legislation was in changing the culture within public organisations. In that context, the role of the patients' rights officer, to which the cabinet secretary referred, will be important. The fact that those officers will be independent is welcome. However, the people who will play an even bigger role are the NHS staff, who must ensure that patients are informed of their entitlements and rights, and must act accordingly. It will be important, when the legislation is introduced, to have a considerable lead-in time to ensure that those cultural issues can be addressed.

I turn briefly to the decision that was announced earlier this week by the Secretary of State for Health regarding top-ups. One of the founding principles of the NHS was that everyone should be treated equally and should have equal access to treatment. The Scottish Government is consulting on the issue, but I must say that, if we are to maintain the principle of all patients being treated equally and fairly, we need to ensure that we do not get into a situation in which a patient is receiving treatment X in one bed while the patient in the next bed is also getting treatment X but with something added because they have a bit more money. That would undermine the philosophy behind not only patients' rights legislation but our NHS.

I firmly believe that enshrining something in law might not necessarily make a great change the day after the bill is passed, but it will ensure that people have the legal rights that they are entitled to and will become more aware of them as a result. Accordingly, I will support the bill when it comes before the Parliament.

10:55

Jackie Baillie (Dumbarton) (Lab): There is much to agree with in the aim of ensuring that the rights of patients are uppermost in the minds not only of the health service but of us all. Like others, I support the principle of a mutual NHS, co-owned by the Scottish people and NHS staff, and I sign up to the principles that the cabinet secretary outlined. However, she also said something that I have heard before, which is that patients should be at the centre of the NHS. Those words have

been said by successive Governments and ministers, and give shape to an aspiration that we all share. However, what that means in practice—in ordinary, everyday life—can fall far short of our expectations.

I am grateful, as I am sure we all are, that the majority of patients experience excellent services and care from our NHS. We need to acknowledge the hard work of NHS staff at all levels in delivering that. However, for some, the experience is less than optimal. The test, for me, is how the principles that were set out by the cabinet secretary today, and which will feature in the proposed bill, will work in reality. There are three tests of that. Will the proposed bill improve the quality of service? Will it improve relationships? Will it ultimately improve the experience for patients?

Like Cathy Jamieson, I would welcome clarity about which elements of the proposals will be legally enforceable and subject to no-fault compensation. Will it be the charter of rights as a whole, or will it relate exclusively to the new waiting time guarantee? What will be in the charter? Mary Scanlon is right to highlight some of the difficulties that the NHS has experienced, not least among which is the incidence of *Clostridium difficile*. Will that feature, or will the charter simply be a high-level set of rights balanced by responsibilities?

I understand that any legislation is capable of being challenged in the courts. However, given the cabinet secretary's view about avoiding the need to go to court in the first place, is there consistency of approach in ensuring that no-fault compensation applies to that wider area of the charter? I would welcome genuine clarification of that point.

I am not persuaded about legally binding guarantees. We have achieved significant improvements in waiting time guarantees over the years without the need for legal redress. Successive ministers have driven down waiting times, and I believe that this minister will do her utmost to do exactly the same. However, the cabinet secretary's signalling of priorities might carry more weight in the NHS system than a loosely defined legal guarantee would. I am worried that there might be unintended consequences, despite the positive intention that I acknowledge underpins the bill proposals.

The creation of a framework of rights is something that many in this chamber would instinctively support, but Cathy Jamieson and Ross Finnie were right to ask how that new open framework and mutual relationship will sit with the introduction of a culture of compensation. Will it lead to more litigation? Is it a charter for lawyers? People are worried about the administrative

burden. Will it remove money from front-line services? We all know the tight financial position of some health boards, to which that diversion of resources might not be welcome at this point.

Christine Grahame: Does the member agree that the introduction of a no-fault compensation scheme would considerably reduce the amount of money that is spent by the NHS on court actions, many of which are settled at the door of the court?

Jackie Baillie: I hope that that would be the effect but, obviously, we do not have a financial memorandum. We look forward to scrutinising it. I am merely listing some of the criticisms that have been made and which need to be explored, and I am sure that the cabinet secretary will do so.

More important than those reservations, however, are my original questions. Will the proposed bill improve the quality of service? Will it improve relationships? Will it ultimately improve the experience for patients? I fear that the answers to those questions are, at the moment, unclear.

Patients say to me that they want to be treated safely, quickly and as locally as possible. They are ill, and they do not want to spend time complaining and arguing; they simply want to be made better. Christine Grahame was right to say that many people are unable to complain because they are vulnerable or distressed, because they need assistance to complain or because they are too frightened. I welcome the proposal to have patients' rights officers, but I wonder whether the cabinet secretary has considered expanding independent advocacy services more generally. That would have the same effect, but be more welcome in terms of coverage on the ground.

The involvement of patients is central to improving the quality of services in the NHS and their experience of those services. If patients are to be involved, they need information and support and they need to know what choices they have—choices about where they are treated, choices about the shape and design of services and so on—and be able to exercise those choices when they have all the available information.

The cabinet secretary will be aware that Greater Glasgow and Clyde NHS Board is consulting on service change at the Vale of Leven hospital. I am interested in her view of the weight that will be accorded to the various views that will come forward. What will be the balance between, for example, the views of clinicians and the views of the local community?

Cathie Craigie raised an interesting point about the fact that the default patterns of service provision that are in place—for understandable reasons—limit people's ability to exercise choice.

Can the cabinet secretary indicate whether she will review that?

Many of the speeches in this debate, including my own, have contained more questions than answers. Michael Matheson was right, not on his point about age—he and I are slightly younger than other members of the Health and Sport Committee, and I would not dare to suggest that Christine Grahame and others are significantly older—but about vested interests and the need to create a better balance in that regard. In that context, patients' rights matter absolutely. We need a better balance between the rights of patients and the rights of those who are perceived to have vested interests. The best way of ensuring that those rights are given real meaning remains unresolved, however. I am not yet convinced that legislation would be the best way of doing that, nor am I convinced that introducing a compensation culture would necessarily be an advantage. However, principles that we can all support have been mentioned in the debate. I hope that, in doing so, we take forward a new era of patients' rights in Scotland.

11:03

Ian McKee (Lothians) (SNP): Members will know—perhaps to the point of boredom—about my background in the health service. However, I have not previously discussed my mercifully short contact with the health service as a patient. My only admission to hospital is still a cause of some embarrassment many years later, as I am the only male I know of to be admitted as a patient to a maternity hospital. I will not go into the reasons why: suffice it to say that the satisfaction survey that I was given to complete at the end of my stay seemed to be irrelevant in certain important respects.

More recently, I embarked on the hazardous adventure of partnering my mother-in-law at a Scottish country dancing class—sadly, unfortified by alcohol. The result was a ruptured Achilles tendon and an urgent visit to the local orthopaedic department, where the doctor asked, "Do you want me to sew the ends together, or do you want to be treated conservatively?" I responded by asking, "What would you do in my place?" A cunning look appeared on his face, and he said, "I would assess the evidence and decide accordingly."

That story illustrates the gap between the theory of what patients want and the true situation. Correctly, we emphasise the right of a patient to be involved in treatment decisions. I had that right, but when it came to the crunch I simply wanted the best advice from an experienced practitioner. Because I am a doctor, I was able not only to perform a computer search regarding the treatment of my injury, but also to weigh up the

merits of one approach versus another. However, not every patient has a medical degree.

In my case, the specialist could tick all the boxes regarding patient empowerment, but was that the help that I really needed? There is an increasing divergence between how the health service is run in England and how it is run in Scotland. In England the model is increasingly to see the patient as purely a consumer. What is important is that the patient is offered choice—choice as to where treatment is offered and, in many instances, whether it should be provided by the NHS or by the private sector.

I disagree with that emphasis for many reasons, but today I will concentrate on one of them. How does the individual, who is often suffering from the effects of an illness, know enough about all the factors to make an informed choice? There is a danger that in this matter, too, political correctness will stand in the way of satisfying real need. In Scotland, we increasingly regard the patient not only as a consumer of the NHS but as a person who also jointly owns the service. In the words of the Long-Term Conditions Alliance Scotland, a patients' rights bill should achieve a

“cultural change away from the traditional model of people as passive recipients of NHS services”.

I could not agree more, but as other members have said, with ownership comes responsibilities. Most people prefer us to concentrate our energy and resources on improving local NHS services rather than offering token choice or giving more profit to the private sector. However, individuals have a responsibility to take steps that help to utilise precious resources to the full. It is not unknown for some hospital outpatient clinics to have a no-show rate of 40 per cent or more, and all general practitioners will tell you how many appointments have been missed in the past month. How can we get waiting times down further if resources are wasted on such a scale?

Medicines are another significant cost to the NHS, yet many are not taken according to instructions and some are not taken at all. If we are all partners in a mutually owned health service, it is up to us all to do our level best to run the service efficiently. If we all gave up smoking, ate more sensibly and took more exercise, we might not need the service so frequently.

Although it is important that the patient has a right to a speedy and efficient complaints procedure when things go wrong, it is also right that all of us, as actual or potential patients, should have a say in how the service is run. We need to be treated with respect, not only as patients but as the people who pay the wages of staff in the service, buy the equipment that they use and pay for the new hospitals in which they work.

Let me tell another story. Some years ago, I looked after an old lady in her final illness. Her grateful daughter came to thank me for the care that I had given and, as she left, she slipped a large parcel out of her shopping bag and shyly presented it to me saying, “I am sure you'll know what to do with this, doctor.” I took the gift and replied, “Oh, there's no need for that. I was only doing my job”, only to find, after she had gone, that the parcel contained almost all the medication that I had prescribed for her mother in the past year, totally unused. It is not just up to patients to see that the health service runs efficiently.

I finish by replying to the cogent point that Ross Finnie, my colleague on the Health and Sport Committee, made in his opening speech. Should the rights that we are talking about be enshrined in law or should they be part of an extended national health service charter? That is a good question that we need to discuss more, but the point that I would like to make to Ross Finnie is that, from my experience of the national health service, an awful lot of patients sadly no longer trust it to investigate and look into the problems that arise and which could be dealt with under a charter. My feeling now, although I am happy to listen to further argument and discussion, is that a bill of rights for patients will help to redress the balance and allow our patients to be confident that they are receiving the service that they deserve and for which they pay.

11:09

Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I have listened to the debate with great interest; it has been extremely informative for a layman such as me, who is no medical expert. I thank the Cabinet Secretary for Health and Wellbeing for outlining, in detail, the intent of the proposed bill and the way she sees developments going, although I do not necessarily agree with her any more than my colleague Ross Finnie does.

I will pick up on one comment that was made by the cabinet secretary, which I thought was useful and struck a chord with me. She referred to patients wanting

“an assurance that lessons have been learned”.

We must surely encounter that in all our dealings with constituents who have problems with the health service. Many of them say to us, “It's not about me—I want to ensure that it doesn't happen to somebody else.” In going back to those constituents, it can be difficult to provide such an assurance. If we can empower people in that direction, that will be all well and good.

Cathy Jamieson set out the arguments that have been repeated again and again on whether we

should go down the legal route. She is right that we need to see the financial memorandum to the bill to see what will happen. As Cathie Craigie asked, will it be about taking money away from front-line services and paying for legal fees? None of us in any party could possibly agree to that. That will be the acid test.

Mary Scanlon made a thoughtful speech in which she rightly gave us the history of the patients charter, which was introduced by a Conservative Government. She also pointed out that only two paragraphs in the consultation document mention no-fault compensation.

Mary Scanlon also touched on the rights of NHS staff and the issue of consent to future treatment. I have a constituency case, which I will not discuss in detail, whereby an elderly lady has been receiving treatment for cancer. The treatment is, in the clinician's view, the most appropriate treatment. Of course, there comes an end point to the treatment. She has two sons who disagree totally with that and have involved me—and, I am sure, list members from the Highlands—in a letter-writing fiasco, if I can put it that way, which has become far removed from what is best for the patient and is more about particular individuals having a grievance against the health service. When matters reach that point, they become grotesque in the extreme. I therefore think that consent to future treatment is an issue on which we must keep a very close eye.

Christine Grahame rightly referred to the common-law rights that currently exist. Echoing Mary Scanlon to a degree, she also mentioned patients' rights and their obligations to staff—Dr Ian McKee referred to the number of appointments that are not kept. Christine Grahame also mentioned ice cream and jelly. I do not expect that to be mentioned in a bill, but it is true that the porters, the cleaners and the people who scrub the toilets deserve recognition every bit as much as the man with "Dr" before his name.

I have already referred to Cathie Craigie talking about money going to front-line services rather than to legal fees. In Michael Matheson's far-reaching speech, he made the point—not one that I particularly agree with—about the importance of staff informing patients of their rights.

Jackie Baillie asked about what will be in the charter and whether C diff will be included. That will be the acid test of what the charter is all about. She also asked about the best way of ensuring that those rights are observed and protected.

Ian McKee's speech, which was one of the best speeches that I have heard for a long time in the chamber, was amusing and thought provoking. He brings to our attention the question whether it is just political correctness to say that patients have

the right to discuss decisions with the doctor or to overturn them. Nicola Sturgeon, among others, made the point that a patient goes for treatment in order to be made well. I, for one, tend to respect the doctor or consultant's opinion. I admit that I know nothing about medicine, so God knows why I am speaking in the debate, but there we are—I have bags of common sense.

I will never forget Dr McKee's reference to being admitted to a maternity hospital. He might like to tell us in the privacy of the coffee lounge what that was all about. I am sorry that he hurt himself doing Scottish country dancing. He illustrated what lies at the core of the debate.

I return to Ross Finnie's comments. The issue is how we ensure that the rights of patients and staff can be dealt with and honoured without going to law. As I and others have said, it would be very bad if any NHS money, which is so precious and is about making people well, was spent on paying legal fees. That would be grotesque in the extreme.

I turn to my constituency. As members will appreciate from my intervention on the cabinet secretary, the issue of distance and access is crucial to my constituents and people in other Highland or remote parts of Scotland. Coming from where I do, when I consider what is meant by patients' rights and what is proposed, it seems to me that the test should be whether people will have easy access and their loved ones and family will be able to visit them when they are ill in hospital.

11:15

Jackson Carlaw (West of Scotland) (Con):

This has been an interesting short debate on the consultation on which the Scottish Government has embarked. In opening for the Conservatives, Mary Scanlon asked some important questions about where the proposed bill sits in relation to the set of commitments for action in the 2007 SNP manifesto. Is it an amalgam of the two bills that were envisaged? Why, as Mary Scanlon pointed out, is so little or nothing about redress to be asked of so many in such a wide consultation on such a profound measure?

The consultation invites contributions under a number of headings, all of which have been well aired in the debate. This is as good an opportunity as any to throw in my own tuppenceworth on a matter that is regularly raised with me and of which I have personal experience. I suppose that, although trivial, it falls within the respect remit. It is to do with the use of names. So many people tell me, following a stay in hospital, that the instant use of given names rather than plain Mr or Mrs is a ghastly indignity and a characteristic that is

shared by the NHS and pushy, unsolicited telephone salespeople.

Why has the convention become established? Why, when many people instinctively feel that the use of their given name is based on a shared confidence, affection or acquaintance, are their wishes assumed or cast aside? Why should they lose control of this basic dignity as though they were back in primary 1, being told that what will be will be—or is that the point? Does the unauthorised use of given names emphasise the institutional nature of the establishment to which they have been admitted?

I know from experience that the practice is haphazard because the correct given name is rarely sought. Although I have been called Jackson from birth and that has always been my given name, my first name is actually David. I continue to use it on all official documents and it is a comfort to know that, when an individual assures my mother, friends or colleagues that they are David's personal friend and confidante, that person is clearly up to no good. However, it is as David that I have been known when in the bosom of the NHS during my admissions to general wards in the past decade. As it happens, I would gladly have volunteered to be called Jackson, because I am not bothered about being called Mr Carlaw, but I was not asked, so in a small anarchic way I let it be and was called David throughout my stay.

However, the approach can add to the trauma of others, particularly the elderly, many of whom find themselves in the same position as me, being called by their first name rather than their given name. An elderly friend, who is now deceased, was called Joan all her life, but she suddenly found herself being called Florence at a confused stage of her life when she was admitted to hospital, as if all the world called her that all her days. In another case, I was told that, as the only name on the file was the person's first name and it did not mention their given name, that was how they would be addressed.

The modern convention of assumed familiarity is certainly prevalent, but it is not necessarily dignified. It might be profoundly important to an individual according to how they define respect. Should the approach be defined in law? Hardly.

Mary Scanlon mentioned the Conservatives' patients charter of 1991 and others mentioned the Labour Government's 1998 follow-up to that. Those charters did not establish rights and responsibilities within a legal framework. Although the consultation's constant theme is the detailing of patients' rights, accompanying that are stated patients' responsibilities.

Under "Access", it states:

"Patients will be responsible for:

- attending agreed appointments."

Under "Respect", it states:

"Patients will be responsible for:

- treating staff with dignity and respect; and
- not physically or verbally abusing staff."

Under "Safety", it states:

"Patients will be responsible for:

- complying with advice on medication and treatment; and
- raising legitimate concerns about the safety of their care."

Under "Communication", it states:

"Patients will be responsible for:

- providing information about their history, current treatment medication and alternative therapies directly or through their family, carer or other nominated supporter;
- informing their healthcare provider of any changes in their condition; and
- taking part actively and constructively in discussion and decisions about their health and health care."

Under "Information", it states:

"Patients will be responsible for:

- seeking and using information appropriately to support their own health, for example to enable self-care for minor conditions; and
- ensuring that they have the information to understand what they need to know about their care, and to provide consent to treatment."

Under "Participation", it states:

"Patients will be responsible for

- asking for further information if there is any uncertainty about their care;
- giving informed consent or not; and
- participating constructively in decisions about healthcare and service where they wish to do so."

Under "Privacy", it states:

"Patients will be responsible for:

- providing the information that is appropriate and relevant to treatment of their condition."

Under "Independent Support and Redress", it states:

"Patients will be responsible for:

- offering feedback on their health services in a positive way as far as possible."

I quoted those responsibilities at length simply to illustrate that, if we strip out the rights, we are left with the most comprehensive and stringent set of

patients' responsibilities—indeed, we are left with a pretty draconian patients' responsibilities bill

I have noted regularly in recent debates that the NHS is not an insurance policy in the normal sense. I have talked about leaving the house doors and windows open, being burgled and then finding that the insurance company is not inclined to pay. I have noted that, in the final analysis, no penalty exists within the NHS, so I suppose that I should welcome the responsibilities, but what do they mean? If a patient does not follow

"advice about ... suggested lifestyle changes",

fails to provide "information about their history" or is unable to provide knowingly

"information that is appropriate and relevant to treatment of their condition",

what will happen? How will that be reconciled with the desire to tackle inequalities? Will the patient be sued by the health board or denied further NHS treatment? Will there be a new sanction in law? That is surely inconceivable, but if there is not, what will be the legal and practical purpose of a bill that seeks to establish legal frameworks? In contrast, the existing charters can be updated without the need for primary legislation.

I applaud Cathy Jamieson's cogent analysis of the value of legislation with regard to the package of rights—on which I have not dwelt—over and above the existing charters. I sat spellbound—that is the word that I wrote down, anyway—as Ross Finnie encapsulated those arguments as well.

It is as well that there is a consultation, for there is much to consult about. We await the responses with interest and we will scrutinise the Government's subsequent proposals with care. Legislation begets unintended consequences and we will look to establish what they might be.

11:22

Dr Richard Simpson (Mid Scotland and Fife)
(Lab): The debate has been consensual as far as the concept of patients' rights is concerned, but it has not been consensual on whether the argument for legislation on the matter has been appropriately and fully made.

David Carlaw went on at considerable length about names. That might have caused some amusement, but it conveyed two things. First, the question of names is a matter of dignity, and, secondly, it is a matter of hierarchy and power within institutions. Names are important in that regard, so his point was well made.

Mary Scanlon made a number of important points. If we introduce statutory waiting time guarantees and legal obligations, the unintended consequences will be substantial. She addressed

mental health and referred to infertility and addiction, and Cathie Craigie mentioned audiology and deafness. If the bill is to take a non-discriminatory approach—it will be challenged by the Health and Sport Committee on that issue—it must ensure that all patients have equal rights, regardless of their condition. That will be a major challenge for the Government. I know that it is considering the mental health issue, but there is serious discrimination against mental health patients. If statutory guarantees are imposed for one set of conditions, health boards will apply money to meet those guarantees at the expense of other patients. That is already happening. It is a major challenge for the Parliament to ensure that we do not have discrimination.

A number of members mentioned the unintended consequences, which are potentially legion. I will give an example. A GP refers a patient to a consultant, who then refers them to a physiotherapist and asks to see the patient at the end of the physiotherapist's intervention. In that case, the treatment guarantees will apply. However, if the patient is referred directly to the physiotherapist, there will be no guarantees even though the condition might be the same. Furthermore, if the consultant does not ask to see the patient at the end of the physiotherapy treatment, the guarantees will not apply.

We are dealing not with simple issues but with the complexities that will be inevitable if statutory guarantees are introduced. I remain unconvinced on the issue. We will see whether the arguments are made more effectively in committee and in the consultation responses, but I do not believe that they were made effectively today.

I offer the chamber another example. England has just announced that, within two hours of a coronary heart disease event, 90 per cent of all patients will get a primary intervention. With our geographical spread, such a target would be a lot harder to achieve—90 per cent would probably not be achievable. If such treatment is required within two hours, will we give patients a guarantee? If we do not give that guarantee, are we saying that they are not entitled to that treatment when it should be available?

An absolutely fundamental issue that has not been raised today is that, for a lot of patients, managing a long-term condition is more important than—or as important as—treating an acute condition. Therefore it is the patient pathway, to which some speakers referred, that is important. As the Labour Party said in our manifesto and in subsequent discussions, we need personal contracts with individual patients so that they agree to what is practical and possible for them. The alternative, which has been explored by some speakers today, is that we end up in a situation in

which we might have draconian patients' responsibilities, as Jackson Carlaw said. I will return to that in a minute.

Christine Grahame: I hear what the member says about the responsibilities that might be put on a patient, but I think that he will agree that those responsibilities would not be the same for each individual but would depend on their capacity to engage with such responsibilities.

Dr Simpson: I would agree entirely, if what Christine Grahame suggests is what really happens. However, there are doctors out there who say that one should not treat patients who smoke if their condition is a consequence of their smoking. I disagree profoundly with that approach, but I promise Christine Grahame that there are doctors who believe that. Unless one defines such responsibilities, there could be difficulties.

Independent support, to which several speakers referred, is important and I very much welcome what has been said. Christine Grahame talked about the complaints system, with 4,000 out of the 7,000 complaints submitted being upheld. Having a system of no-fault compensation in the proposed bill is alluded to in the consultation but not dealt with in any detail. As Mary Scanlon remarked, such a system would be fundamental in changing the culture. As a doctor, I can tell members that at present, if a doctor does something that might not be appropriate and the patient makes a complaint, the Medical Defence Union will often tell the doctor not to say anything, because the matter might become a legal case. There is a culture of not saying things when, as Jamie Stone said, often patients just want a reasonable explanation of what went wrong and an assurance that it will not go wrong again. Although my party does not have a position on the issue, my personal opinion is that no-fault compensation could be very helpful.

Mary Scanlon: Given that you are a medical professional, I ask you respectfully for your views on the unintended consequences of a patient being entitled to withdraw consent and refuse further treatment.

The Deputy Presiding Officer (Alasdair Morgan): Members should make their remarks through the chair.

Dr Simpson: I do not want to get into that question today, but I will refer to consent and its withdrawal. If the bill is enacted, we will have to relate it to the Adults with Incapacity (Scotland) Act 2000 and consider the situation carefully.

We all want genuine choice for patients, but as Cathie Craigie said, that has to be approached carefully. If patients are offered the opportunity to go to one hospital but wish to go to another because they prefer the surgeon or the reports on hospital-acquired infections from that hospital, or

because they have relatives nearby who might support them, will they lose their guarantees? The matter is difficult and complex.

We need a culture in which patients who raise concerns about their treatment are welcomed and not treated as a problem. I have cases that relate to hospital-acquired infection. In one case, a patient who intervened because the staff had not washed their hands was treated unpleasantly. That culture has to change. Although the cabinet secretary cannot change it, the Parliament, together with the cabinet secretary, can make it clear that we want to change the culture.

I do not have time to address all the remaining issues so I will finish by saying that there has to be a balance between a charter—rights that the Parliament indicates are appropriate for patients—and a legal framework. That is the main point to come out of the debate.

Medicine is not a product like a car with a guarantee that one can hold over another individual if things go wrong. Medicine is very complex and the choices that have to be made between one treatment and another might not depend entirely on a strong evidence base. Ian McKee's illustration of being offered alternative treatments for his Achilles tendon was valid. To ask patients to make such a choice is wrong; one should discuss with the patient the benefits and risks of each treatment and then, in partnership with the patient, agree what treatment to use. We in this Parliament should foster that concept of partnership. If we pitch one set of rights against another, it might lead to unintended consequences that will not help to improve the quality of care for patients.

11:31

Nicola Sturgeon: I begin by genuinely thanking all members for their contributions to today's quality debate in which some serious points have been made.

The issues that have been raised are undoubtedly those that will require full explanation in the course of the consultation. I will avoid as far as possible in my summing up the temptation to take fixed positions on all the points that have been raised because at the heart of this debate are not only serious, practical questions but serious philosophical questions. It is right that the Parliament airs those issues and works through them during the consultation and thereafter.

I said that I would not take fixed positions on all issues raised today, but I will take fixed positions on some. To my esteemed colleague Christine Grahame I confirm that the bill will not enact the right to ice cream and jelly in every hospital; I believe that they should be provided as a matter of

course anyway. To Ian McKee, I say that the bill, if enacted, will certainly not enshrine his right—or that of any man—be admitted to a maternity hospital anywhere in Scotland. I am sorry if that brings great disappointment, but I am sure that my colleague will live with it.

In the few minutes available to me, I will respond to some of the comments that have been made and then I will address what I believe to be the key philosophical question at the heart of the debate, which has been referred to by many members.

I very much welcome the broad support that Cathy Jamieson expressed for the intention and objective of the bill. I also welcome her constructive criticisms and suggestions about how we could improve our proposals. As with all members' suggestions, they will be reflected on properly during the consultation.

Cathy Jamieson also raised issues around the proposed waiting time guarantee. She said, rightly, that any legislation, particularly in an area such as the one that we are discussing, must be appropriate and proportionate. I believe that what we propose is both: it focuses on a vital stage of the patient journey; and it would avoid the possibility of lengthy waits in exceptional circumstances.

Cathy Jamieson, Mary Scanlon, Cathie Craigie and others raised an important point: because the existing waiting time guarantees do not apply to all patients and treatments, giving a legal guarantee to some patients would create an inequity. Of course, that inequity exists in the current waiting time guarantees, which is why the Government is considering which further groups of patients can be brought within those guarantees. Cathie Craigie will be interested to know that we have already taken the decision to bring audiology services within the guarantees and, as Richard Simpson said, we are looking at the possibility of including mental health services. No doubt our consideration will go beyond those areas in due course.

Cathy Jamieson also spoke about the complexity of the complaints system, and I agree with her. That is why we have proposed independent patients' rights officers, and I believe that it is important to give such posts statutory force.

No-fault compensation was raised by a range of members, including Cathy Jamieson and Mary Scanlon. I reiterate the Government's commitment to the principle of no-fault compensation; I also reiterate my recognition of the considerable practical, legal and financial considerations that have to be addressed in the debate. If we can address those issues, I will be happy to consider including in the bill proposals for no-fault

compensation. However, because of the complexity of the issue, we may need to conduct a separate exercise. I was struck by Cathy Jamieson's suggestion that we establish an expert group, not least because I have been giving consideration to that. I will reflect further on her comment.

I will touch briefly on the issue of responsibilities. It is right that we stress responsibilities as well as rights. However, to be candid, it is much more difficult to place patients' responsibilities in law than it is to place patients' rights in law. Like Richard Simpson, I disagree profoundly with the view that a patient who drinks or smokes against advice should not be given the same rights to treatment as any other patient. There is merit in a personal contract approach to enshrining responsibilities as well as rights.

Mary Scanlon raised the extremely important issue of NHS staff. We can never do enough to ensure that our staff are properly respected. NHS Scotland has a system of partnership working and a staff governance standard that are world leading in many respects, but we should always do as much as possible to ensure that the rights of staff are respected.

I turn to the central issue that was raised by Cathy Jamieson, Mary Scanlon and, principally, Ross Finnie. I refer to the apparent tension between putting in place a legal framework and avoiding—as we all seek to do—a culture of blame in the NHS. I have reflected hard on the matter and will, no doubt, continue to do so. That culture of blame often comes from a lack of clarity and understanding of what a patient's rights are, how they can ensure that those rights are delivered, and what they should do to get appropriate redress when things go wrong. The intention behind the patients' rights bill is to ensure that there is no dubiety about what those rights are. It should be backed up by a charter of mutual rights that makes clear how rights will be delivered in practice. As with any statutory right, the ultimate sanction is access to courts; as Christine Grahame said, any statutory rights would be in addition to the common-law rights that patients already have. A legal framework that works effectively will reduce the necessity for patients to seek redress, because giving patients' rights statutory force will help to ensure that they are delivered properly in the first place.

Cathy Jamieson: Will the cabinet secretary assure us that mediation will be considered as part of the process?

Nicola Sturgeon: I am happy to do so. The essence of what I am saying is that I believe that putting rights in statute will help us to change effectively the dynamic of the relationship between the patient and the NHS. Michael Matheson was

absolutely right when he said that this is about changing the culture. Such a change in culture will allow a patients' rights bill to pass the test that Jackie Baillie set of improving quality, relationships and experience. If we combine it with a no-fault compensation system, there is a real possibility of reducing the likelihood of patients accessing the courts. That is the philosophical debate at the heart of the issue that we will continue to pursue in the consultation.

Finally, I will address the issue of patient choice. Jackie Baillie was right to say that there are established patterns of service delivery, which is as it should be. Patients will almost always exercise the choice to be treated as locally as possible—that is why it is important to retain local services, where possible. However, patients can already choose where to be treated. It is reasonable to ask whether that right should be enshrined in statute—the issue should be considered in our discussions. Richard Simpson was right to point to the patient pathway and the importance of treating long-term conditions as well as acute conditions. I am pleased to see that the Long-Term Conditions Alliance Scotland has welcomed the approach to patients' rights that we have taken.

I have enjoyed today's debate, which has been illuminating and informative. I look forward to that constructive approach continuing when we confront some of the complex issues with which we are dealing, as all Parliaments have a duty to do, and reach conclusions that are in patients' interests.

Question Time

SCOTTISH EXECUTIVE

General Questions

11:39

The Presiding Officer (Alex Fergusson): I remind members who were not in the chamber for questions last week of the instructions that they should have received from their business managers. Questions should be sharply focused and should take the form of a question, rather than a statement or speech. I expect ministers to respond accordingly.

A76

1. Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): To ask the Scottish Executive what further improvements are planned for the A76. (S3O-4704)

The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson): Transport Scotland's strategic transport projects review is examining the longer-term needs of Scotland's nationally strategic transport network. That includes consideration of the A76 as part of the transport corridor between Glasgow and north-west England.

Cathy Jamieson: The minister will be aware that many of my constituents are concerned about the lack of an adequate footpath between Cumnock and New Cumnock alongside the A76. Will he assure us that the matter will be re-examined as part of the strategic transport projects review, especially in light of the fact that an e-petition on the issue was submitted to Parliament this morning?

Stewart Stevenson: I have made 278 ministerial journeys on foot, accounting for some 65 hours of my ministerial time, since coming into office, so the member should be assured that I want to do everything possible to ensure that there is safe and adequate footpath provision not only in the south-west of Scotland but across the country. I will give further careful consideration to the issue.

Alasdair Morgan (South of Scotland) (SNP): In his initial answer, the minister referred—as does Transport Scotland—to the M74 and the A76 as a corridor, which strikes some of us as a curious concept. In light of those comments, to what extent is he considering improving the A70 to divert heavy vehicles from the northern part of the A76 to the M74, which would take pressure off the southern part of the A76?

Stewart Stevenson: The strategic transport projects review is considering surface transport across Scotland. It is looking at hubs—our main centres of population—corridors linking those centres and corridors extending out from those centres to more remote parts of Scotland. Examination of the various roads in the south-west will, of course, include consideration of the kind of alternative routing to which the member refers.

Animal Welfare (Transportation)

2. John Scott (Ayr) (Con): To ask the Scottish Executive what discussions have taken place, or are planned, between Scottish ministers and the European Commission about the forthcoming review of Council regulation (EC) No 1/2005 on the welfare of animals during transportation. (S3O-4675)

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): Formal discussions between the Scottish ministers and the European Commission about the forthcoming review of the Council regulation on the protection of animals during transport and related operations have yet to take place. The Commission has consulted on options, rather than proposals. We have expressed concern to the Commission about the potential impact of the review on Scotland's livestock sector. We anticipate that the Commission will issue proposals next year. In the meantime, Scottish Government officials are working closely with officials from the Department for Environment, Food and Rural Affairs to ensure that we are in a position to resist any proposals that are against Scotland's interests.

John Scott: I am sure that the minister is aware that there are serious concerns about the consistent lack of enforcement of existing welfare regulations, which causes an estimated 100,000 horses to suffer unnecessarily each year as they are packed into trucks and driven thousands of miles across Europe to slaughter. Will the minister condemn that cruel practice and undertake to write formally to the European Commission on behalf of the Scottish Government in support of a strengthening of welfare regulations, as advocated by World Horse Welfare, to end the inhumane transport of horses into and across the European Union?

Richard Lochhead: I am aware of the member's concerns, which I know he has raised elsewhere in Parliament. I will be happy to express to the European Commission Parliament's desire to ensure that existing regulations are enforced adequately, as happens here in Scotland. Such enforcement should be replicated throughout Europe. I will seek opportunities to raise the issue with the European Commission.

Economic Growth

3. Gavin Brown (Lothians) (Con): To ask the Scottish Executive what assessment it has made of the impact of recent events in the financial sector on economic growth in Scotland. (S3O-4677)

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): The Scottish Government monitors developments in the global economy and assesses their potential impact on the Scottish economy on a regular basis. The assessments of recent events in the financial sector and of the wider impact on the economy have informed the Scottish Government's economic recovery plan.

Gavin Brown: One part of the Government's economic recovery plan refers to planning. Why, in the draft budget, is the planning budget reduced from £8.9 million this year to £2.2 million in the next financial year?

John Swinney: The answer is simple: capital expenditure has been undertaken in this financial year to introduce the e-planning system, which was a one-off item of expenditure, to allow us to benefit from greater efficiency in the planning system. I should have said "electronic planning", as opposed to "e-planning" for short. Once the money has been spent on installing the infrastructure, we will benefit from efficiencies without having to count the cost every year. I am sure that Mr Brown will approve of that prudential investment.

Brian Adam (Aberdeen North) (SNP): Can the minister provide guarantees that, should another bid for HBOS be forthcoming, the Scottish Government will fully engage with it and do all that it can to protect Scottish jobs, maintain decision-making functions in Scotland and ensure that Scottish consumers benefit from a competitive banking sector?

John Swinney: Mr Adam charts a number of the aspirations and motivations of the Government in dealing with the HBOS situation. We have been anxious to retain in Scotland significant corporate decision-making jobs, with effective decision-making power remaining here in Scotland. We have been anxious to secure a competitive banking market, which is essential for a vibrant and healthy contribution to the Scottish economy from small and medium-sized enterprises. Those are all key aspirations of the Government.

We have made it clear—the First Minister has made it very clear—that the Government will engage with any bids that come forward equally, as we have engaged with Lloyds TSB. As an Administration, we have a duty to do all that we can to protect employment and decision making in

Scotland. That will be our approach towards any bidder who comes forward for HBOS.

Scottish Qualifications Authority Exam Reforms

4. Elizabeth Smith (Mid Scotland and Fife) (Con): To ask the Scottish Executive whether it can provide details of the likely timescale for publication of the results of the recent consultation process on SQA exam reform. (S3O-4682)

The Cabinet Secretary for Education and Lifelong Learning (Fiona Hyslop): The consultation on the next generation of national qualifications in Scotland closed on 31 October. Individual responses will be published on the Scottish Government website by 28 November 2008. The independent research company Ipsos MORI is analysing the responses and a range of other evidence, and is due to report in late January 2009. Following consideration by the Scottish Government, an announcement on the way forward will be made in spring 2009.

The expanded curriculum for excellence management board, whose membership now includes teacher and headteacher associations, met last Friday, 31 October. Following its advice, I took an early decision and announced on Friday that the standard grade replacement and other new qualifications will be introduced in 2014. I wrote to the Education, Lifelong Learning and Culture Committee to inform it of that on Friday.

Elizabeth Smith: In light of that answer and of the cabinet secretary's announcement of a one-year delay to the implementation of the new structure of the Scottish Qualifications Authority, is it still the Government's intention to introduce a Scottish baccalaureate in science and languages and, if so, what will the timescale be?

Fiona Hyslop: The curriculum for excellence is already being implemented across Scotland. Many schools are implementing the curriculum for excellence structure from secondary 1 this year, and all schools are expected to do so by 2010. The extra time for implementation automatically means that the timing of the examinations has been moved to 2014.

Because the Scottish baccalaureate involves existing higher and advanced higher, the timetable for its introduction will continue according to the original proposal, so the first students will benefit from it in August 2010.

Television

5. Ian McKee (Lothians) (SNP): To ask the Scottish Executive whether it considers that the nation's cultural identity is enhanced by the permanent presence in Scotland of a vibrant,

robust and competitive television programme-making industry. (S3O-4745)

The Minister for Europe, External Affairs and Culture (Linda Fabiani): Yes. As highlighted in the Scottish Broadcasting Commission report "Platform for Success", broadcasting is important to the economic, cultural and democratic health of the nation. The report recognises that more high-quality creative content can be produced in Scotland given the right environment. That will provide the basis from which Scotland can develop a dynamic and successful production industry, creating world-class content for worldwide audiences.

Ian McKee: Bearing in mind the close links between television production and the health of the wider creative community, as well as the importance of local and national news programmes in informing citizens about issues of common interest, does the minister agree that an appropriate model must be found to maintain and expand high-quality television content from both BBC Scotland and STV, as the commercial broadcaster in Scotland?

Linda Fabiani: Yes. As was highlighted in the commission's report, plurality of services is extremely important to viewers, both for news services and more generally. The commission's research highlighted a desire on the part of the public for a Scottish network to service the whole of Scotland, and for all the public service broadcasters, including the BBC and ITV/STV, to ensure that their news services provide suitable coverage for all parts of the United Kingdom. The Scottish Government has indicated that it supports those recommendations. We will respond fully to the Broadcasting Commission by the end of the year.

Ted Brocklebank (Mid Scotland and Fife) (Con): The minister will have noted yesterday's comments by Ed Richards, the head of the Office of Communications—Ofcom—that STV programmes such as "Scotland Today" might be axed because of the financial crisis facing ITV. Does the minister believe that there should be current affairs competition for the BBC in Scotland? I accept that broadcasting is a reserved function, but does the minister see merit in top-slicing the licence fee to allow ITV to provide that competition?

Linda Fabiani: The matter is obviously being discussed by the Conservative party at the moment. As is outlined in Ofcom's public service broadcasting review consultation, a number of issues will need to be considered, particularly the provision of local and national news on ITV/STV. The Scottish Government is considering its response to the Ofcom consultation, and we will respond by 4 December. I urge members

throughout the Parliament also to respond to Ofcom to ensure that all concerns are taken into account.

A90 (Laurencekirk Junction)

6. Alex Johnstone (North East Scotland) (Con): To ask the Scottish Executive what plans it has to improve further the junction of the A90 with the A937 at Laurencekirk. (S3O-4681)

The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson): Transport Scotland's strategic transport projects review is examining the longer-term needs of Scotland's nationally strategic transport network, which includes consideration of the A90 as part of the transport corridor between Dundee and Aberdeen.

Alex Johnstone: Does the minister acknowledge the fact that when the temporary measures were put in place at the junction, it was understood locally that they would be temporary, and that there would be a quick move towards the development of a grade-separated junction at the site? What progress was made by the previous Government towards that aim? Will that aim feature among the present Government's priorities?

Stewart Stevenson: The member will be aware that the previous Liberal Minister for Transport made improvements in 2005, which have resulted in a reduction in the number of accidents at the junction. We inherited no planning for further work. In light of the remark that the Liberals' finance spokesman, Jeremy Purvis, made last week, that

"Efficiency savings in the infrastructure programme have been identified,"—[*Official Report*, 30 October 2008; c 11852.]

we would not have expected any further investment from the Liberals, had they remained in a position of influence on the matter.

Tavish Scott (Shetland) (LD): What has that got to do with the question, Presiding Officer?

The Presiding Officer: I am indeed left wondering what that had to do with the question.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): This is a very serious issue. The minister wrote to me saying that only "2 slight injury accidents" have taken place on the A90 at Laurencekirk in the past three years, whereas figures released by Grampian Police under the law on freedom of information—which is more than I got from the Minister for Transport, Infrastructure and Climate Change—show that there have been 35 collisions and 21 injuries at Laurencekirk. Does the minister agree that those are alarming figures? Will he reconsider his decision not to meet me, Jill Campbell and other local campaigners to see for

himself just how dangerous the road around Laurencekirk is?

Stewart Stevenson: As the member is aware, I am a regular user of the A90 and I am familiar with the area—indeed, it seems quite clear that I am somewhat more familiar with it than he is. My answer related to the junction that he asked me about; the freedom of information request that he mentioned referred to a substantially greater area of the A90. As this is a matter of concern to us all, it is being treated very seriously.

Of course, the Liberals have trouble with numbers. Last week, Jeremy Purvis said that ministers in this Administration

"will be 40 per cent wealthier"—[*Official Report*, 30 October 2008; c 11851.]

than those in Ireland. Actually, the Irish make twice as much money as we do.

The Presiding Officer: That remark is off the subject, minister.

Stewart Stevenson: Numbers from Liberals on the subject of roads or on anything else are not to be trusted.

Mike Rumbles: On a point of order, Presiding Officer. Given that people have died at this junction and that there have been serious injuries of which the minister is not aware, is it appropriate for him to make petty political points on this serious issue, which has received broad cross-party support?

The Presiding Officer: I remind the minister of what I said at the beginning of question time: I expect answers to stick strictly to the subject matter of the question.

Charities Legislation

7. George Foulkes (Lothians) (Lab): To ask the Scottish Executive what plans it has to revisit legislation on charities. (S3O-4699)

The Minister for Community Safety (Fergus Ewing): We are making good progress on implementing the Charities and Trustee Investment (Scotland) Act 2005, which includes mechanisms for regular review.

George Foulkes: Is the minister aware of the comments of Lucy McTernan, the acting director of the Scottish Council for Voluntary Organisations, who said that the Office of the Scottish Charity Regulator's recent decisions on private schools

"could undermine the public perception of charities"?

Does he agree with me—and, indeed, with Christine Grahame—that private schools are bastions of privilege that help to perpetuate class divisions? Finally, does he accept the suggestion

from Stephen Maxwell, a very respected and well-known nationalist, who, writing in *Third Force News*, said:

“it is time for the Scottish Parliament through its Communities Committee to review the implementation of its own charities legislation”?

Fergus Ewing: The charities legislation, which was introduced by the previous Labour-Liberal Administration, received broad cross-party support. For an organisation to qualify as a charity, it must demonstrate that it provides a public benefit, and that criterion was employed by the independent charities regulator in reaching the decision that was announced on 28 October. Some private schools passed the test on the grounds that they satisfied the public benefit test, in particular by providing assistance to those who are unable to pay fees to attend those schools; other schools did not.

I note in passing that Lord Foulkes's personal details, which can be found on the Scottish Parliament website, show that he attended Haberdashers' Aske's school, which is a notable and significant private school. Members will therefore be interested to learn that along with the actor who played Borat and the comedian David Baddiel, Lord Foulkes is a notable old Haberdasher.

The Presiding Officer: I am not sure how that relates to the question. [*Laughter.*] I would prefer your answer to relate to the question, minister.

Fergus Ewing: I was simply going to suggest that those who have benefited from a system should perhaps not decry others who take up opportunities to do so.

George Foulkes: On a point of order, Presiding Officer.

The Presiding Officer: I hope that it is a point of order, Lord Foulkes.

George Foulkes: Surely, if the minister's suggestion were followed, you and he would also have to declare an interest.

The Presiding Officer: That is not a point of order.

Homecoming Scotland 2009 (Highlands and Islands)

8. David Stewart (Highlands and Islands) (Lab): To ask the Scottish Executive what discussions have taken place with Highland Council and Highlands and Islands Enterprise regarding possible events in the Highlands and Islands during the homecoming Scotland 2009 celebrations. (S3O-4726)

The Minister for Enterprise, Energy and Tourism (Jim Mather): The homecoming team is

in constant contact with the Highland Council and Highlands and Islands Enterprise, both of which, along with other organisations in the north, are important partners in the event. To strengthen those partnerships, a member of the homecoming team works out of the HIE office in Inverness two days each week. The very close working relationships that have been built up have resulted in the planning of a number of homecoming events across the Highlands and Islands to celebrate homecoming Scotland next year.

David Stewart: Does the minister share my view that the year of homecoming provides opportunities for the diaspora to visit Scotland and provide a major boost to tourism in the Highlands and Islands and beyond? Will he support my campaign for the Tate gallery to lend Gainsborough's portrait of the famous Highland family, the Baillies, to the Inverness art gallery to provide a focal point for Highland events in 2009?

Jim Mather: Of course I support that campaign. We should also encourage everyone in the Highlands to show Highland hospitality in their letters, e-mails and phone calls. In their Christmas cards to people furth of the Highlands and Scotland, they should invite them to next year's year of homecoming. The gathering in Edinburgh next year should involve work with the clan societies; people should be told to come to Edinburgh and, having done so, to go north and west.

Christine Grahame (South of Scotland) (SNP): And south.

The Presiding Officer: Thank you for that sedentary intervention, in which I declare an interest.

First Minister's Question Time

12:00

Engagements

1. Iain Gray (East Lothian) (Lab): To ask the First Minister what engagements he has planned for the rest of the day. (S3F-1142)

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

The question provides an opportunity for all of us to welcome the huge election victory of President-elect Obama and all that that victory means for the world in promoting an atmosphere of hope and expectation as opposed to the politics of fear and despondency. [Applause.]

Iain Gray: Throughout Scotland, local authorities are struggling with the budgets that the Scottish Government has given them. Let us look at Fife Council, for example. Home care charges are up from £4 a week to £11 an hour; £51 is now being charged for a home alarm whereas previously everyone who needed one got one free; and charges of £7 for shopping deliveries have been introduced for the first time that service is no longer free. Is that what the First Minister meant when he said that he had given local government the flexibility in funding to meet the priorities of our people?

The First Minister: I wonder why the leader of the Labour Party chooses Fife as his example. If Fife is the example, let us welcome the 10 per cent increase in the education budget there and Fife Council being one of the councils in Scotland that is moving ahead with employing new teachers in this academic year. [Interruption.] I see that Lord George Foulkes is again disgruntled. Let us make him even more disgruntled by mentioning the fact that Glasgow City Council, North Lanarkshire Council, Clackmannanshire Council, Dundee City Council, North Ayrshire Council, East Dunbartonshire Council, East Renfrewshire Council, Inverclyde Council, Midlothian Council and South Lanarkshire Council are Labour-led councils that have home care charges.

Iain Gray: It is true that other councils levy home care charges. In Glasgow, for example, the average charge is around £10 a week—not £11 an hour—and that is for home care and shopping services. This is about change—abrupt overnight change for the worse when the Scottish National Party takes power.

Rose Ritchie of Cardenden uses a wheelchair because a spinal condition has left her unable to

lift her head. With some support, she manages to live alone; her community alarm is—literally—her lifeline. However, the SNP has changed that. On her tight budget, she simply cannot afford the new bill of £51, so the SNP Fife Council has set its debtor team on to her. Will the First Minister take some responsibility for the plight of Rose Ritchie and others like her in Fife and tell his council to call off the bailiffs?

The First Minister: I am glad that Iain Gray talks about responsibility, because that has been totally lacking in the Labour campaign in Glenrothes. We should consider, for example, what the Labour candidate said the other night at *The Courier* hustings. He said that he had tried to reassure people, but that he did not know what the criteria were. If he had taken the opportunity to find out what the criteria were, he would know that 1,000 people who were paying charges under the Labour Party are now no longer paying charges under the SNP-Liberal Administration. It is true that 8 per cent of people are paying charges at the full rate as a result of an income assessment that is based on their ability to pay, but exactly the same position prevails in many Labour councils in Scotland. I wonder whether, in future by-elections, the Labour Party will want to feature those examples, in which its councils are in charge of home care charges that are based on the ability to pay.

Iain Gray: Earlier in this exchange, the First Minister mentioned events in the election in America. I have to say that the First Minister is no Barack Obama. [Interruption.]

The Presiding Officer: Order.

Iain Gray: Indeed, the First Minister is less about the audacity of hope and more about the effrontery of hype. One thing is certain sure: with the power that Barack Obama has taken on comes enormous responsibility. Always with power comes responsibility for those who are big enough to accept it. The SNP leader of Fife Council has taken responsibility. He stands by his cuts. He said this week on the "Today" programme:

"I've no problem taking responsibility for everything the council has done".

That must include the council's cuts. Will the First Minister now accept his responsibility for the SNP cuts in Fife and throughout Scotland?

The First Minister: It is certainly true that I am no Barack Obama; the problem for Iain Gray is that he is no Jack McConnell. The campaign in Fife has included a range of accusations that have been levelled at the SNP council. The Labour Party in its campaign has said that there have been education cuts in Fife, despite the fact that the Fife education budget has increased by 10 per

cent. The Labour candidate for Glenrothes says that there are education cuts in Fife. That is absolutely true. I have here a letter that he wrote to councillors in Fife complaining about the slashing of his school budget, before the last election, when the Labour Party was in charge in Fife. As we examine the items one by one, there is no doubt whatever in Scotland about which party is pursuing the politics of hope and expectation and which party pursues the politics of fear and despondency.

Iain Gray: That is exactly the effrontery that the First Minister deploys. In Fife, £300,000 has been cut from the budget for classroom assistants, £500,000 has been cut from the budget for teachers, and £460,000 has been cut from the budget for transport for disabled pupils. The cuts in Fife are unfair and unjust; they are being made to services for the elderly and the disabled and in Fife schools, too. Will the First Minister stand alongside his council and his candidate and say that he, too, has no problem with the council's cuts? Is he with Peter Grant, or is he with Rose Ritchie? Today, he cannot be both. Whose side is he really on?

The First Minister: The problem for Iain Gray is that the budget for education in Fife has increased by 10 per cent in the current year. There is no doubt about that—the figures are there. I accept that the previous Labour council reduced the education budget, as the Labour candidate helpfully pointed out when he was a headmaster rather than a Labour candidate.

On the generality of local government funding in Scotland, we hear repeated complaints from Labour members who are unable to accept that the historic concordat has proven that the local government settlement in Scotland is the most generous for a generation. I was interested to note the following words in a Finance Committee *Official Report*.

"I would always acknowledge the costs of providing services in local government. This is set against the backdrop of the Government providing local authorities with a record level of resources."—[*Official Report, Finance Committee*, 16 September 2008; c 700.]

That was said by Jackie Baillie. I know that she is a non-person and is no longer in Iain Gray's team, but if she acknowledges that there are record resources to local government across Scotland, why does Iain Gray not?

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-1143)

The First Minister (Alex Salmond): I will meet the Secretary of State for Scotland this Sunday at the service of remembrance at St Giles cathedral.

Annabel Goldie: This week, it was confirmed that the national health service in England should not withdraw treatment from patients who choose to pay privately for additional drugs. Will the First Minister confirm that that facility will now be available to NHS patients in Scotland?

The First Minister: We are looking carefully at the report that was released in England. We will be able to announce our response to it shortly, but that measure is certainly something that we are considering. A review is in place and we will make an announcement shortly.

Annabel Goldie: The First Minister rightly misses no opportunity to laud Scotland's virtues, but it is unacceptable complacency if he fails to address negative impacts with the same urgency. Health care in England is now more flexible and, therefore, arguably better. Why should some NHS patients be forced, particularly at a time of grave ill health, to make a choice between staying in Scotland or selling up and going to live in England to benefit from that improvement? How is that, to quote the First Minister's words from only a few moments ago,

"the politics of hope and expectation"?

What is he going to do about it?

The First Minister: The burden of argument has been that the Scottish system of determining drug availability through the Scottish Medicines Consortium is generally recognised as more flexible than, and superior to, the one that prevails down south. We are always willing to learn lessons and take advice based on the most recent information, which is exactly why we are studying the report that was released this week. If we can improve the Scottish situation on the basis of advice that is taken elsewhere, we will do so, because it is our obligation to the national health service and the people in Scotland. However, Annabel Goldie is wide of the mark if she does not acknowledge that the present Scottish system for determining the availability of medicines—which will always be a difficult and agonising issue—is generally considered to be substantially superior to the one that prevails south of the border.

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-1144)

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

Tavish Scott: I join the First Minister and other members who have congratulated President-elect Obama—a very liberal Democrat.

This week, Unite the Union told me that there is now no doubt that we face losing thousands of banking jobs in Scotland. Only minutes after its meeting with the First Minister, Lloyds TSB told the City that it would cut 20,000 jobs. What levers does his Government have to influence HBOS shareholders to keep Scotland's bank Scottish?

The First Minister: The Parliament made a substantial statement of concern about these issues last Thursday. I recall that Tavish Scott and I voted in the same manner. That vote enunciated by a substantial majority a parliamentary view of the concern that is rightly felt about jobs, decision making and competition in the Scottish banking sector. There have been some well-reported developments over the past week. The Scottish Government's view is that if any bid for HBOS were to emerge beyond the one that is on the table from Lloyds TSB, it would be our duty to evaluate it in exactly the way in which we are evaluating the Lloyds TSB one: on the basis of its impact on jobs in Scotland, decision making in Scotland and competition in the Scottish economy. That seems to me to summarise the interests of Scotland.

Tavish Scott: The First Minister inherited a position in which the Scottish Government is hardwired into the Scottish financial services industry. That needs to be exploited. There is now a fight to find an alternative way forward for HBOS. How is it acceptable that the bankers' first instinct is to pay one another £60,000 a month to advise one another on the mess that they made? The taxpayer is now a £1 billion shareholder in our banks, and we want our money to do more than lose 20,000 jobs, send other jobs overseas and close down branches on the high street. Will the First Minister tell bankers that, when the taxpayer has to cough up billions to bail them out, we expect them to listen to the interests of customers and small businesses, not tell us to leave them alone?

The First Minister: There is broad agreement that a variety of practices in the financial sector, which have been well noted and well reported, should come to an end. That seems a reasonable position for all of us to adopt.

On the guts of the issue, I take it that Tavish Scott agrees that the Government should have discussions with Lloyds TSB on what is in the best interests of Scotland—I know that he does because he supported that position. I take it that he agrees that, if another offer comes on the table, it should be assessed and evaluated against exactly the same criteria. That is also in the interests of Scotland. In turn, I think that every

single one of us should acknowledge that people's concerns about employment and jobs are entirely legitimate—they arise from an entirely reasonable assessment of the situation. The concerns about decision making in Scotland are also legitimate, as are, as the Office of Fair Trading report indicated only last Friday, the concerns about the impact on competition.

In terms of pursuing the public and national interest in Scotland, as Tavish Scott well knows, we do not have authority over the financial sector at present—would that we did. Nonetheless, within the powers that we do have, we shall represent the interests of the Scottish people to private organisations, the United Kingdom Government and any other interested party and we will keep those paramount in how we approach this situation.

Jackie Baillie (Dumbarton) (Lab): The First Minister will recall the devastating loss of life at the Vale of Leven hospital due to *Clostridium difficile*. Since then, constituents have come forward to report that relatives have died of C diff when it was not diagnosed and that, in other cases, patients have been discharged carrying the infection, yet tests gave them the all-clear. Is the First Minister aware of a study that was published in *The Lancet* that suggests that up to a quarter of C diff cases have been misdiagnosed? Will he ensure that the central recommendation of that study, which is that double tests be undertaken in all cases of suspected C diff, is implemented in every Scottish hospital to help to reduce the mortality rate for C diff?

The First Minister: The general concern about diagnosis and death certificates is well noted. If there are specific matters affecting Jackie Baillie's constituents in terms of the recent understandings, she should approach the Cabinet Secretary for Health and Wellbeing, who will give her specific concerns a very willing hearing.

John Lamont (Roxburgh and Berwickshire) (Con): The First Minister will be aware of the devastating job cuts that have been announced in Hawick this week. On Monday, we were told that Hawick Knitwear Ltd would cut 15 per cent of its workforce due to the economic climate and, last night, it was announced that Hawick Cashmere would cut further jobs due to a company restructuring. That news comes on the back of the decision by Pringle of Scotland earlier this year to stop production in Hawick, which has left that proud town reeling. What action does the Scottish Government plan to take to protect the skilled workforce in the Borders and, in particular, to save the textile industry from cheap overseas imports?

The First Minister: As the member will know, John Swinney has already intervened in the Pringle situation and he indicates a willingness to

visit and intervene in the latest development, which is a blow to jobs in the Borders. Equally, the Scottish Enterprise partnership action for continuing employment team will be put on the case in order to develop skills and find alternative employment. The member can be satisfied that the Scottish Government will be fully engaged in addressing the employment position that is developing across the country as a result of the general economic climate.

Icelandic Banks (Asset Recovery)

4. Christine Grahame (South of Scotland) (SNP): To ask the First Minister what discussions the Scottish Government has had with HM Treasury about ensuring that an estimated £46 million of local authority investment, along with charity deposits, are recovered from Icelandic banks. (S3F-1150)

The First Minister (Alex Salmond): The Scottish Government is working with the United Kingdom Government and Scottish local authorities to secure and retain all the assets that local government and other Scottish depositors have placed in Icelandic banks in good faith.

The Cabinet Secretary for Finance and Sustainable Growth is in regular contact with the UK Government and the Convention of Scottish Local Authorities to ensure that everything possible is being done to recover those assets. He wrote to the Chancellor of the Exchequer on 9 October outlining the strong concerns in Scotland about the developing situation. He met the Secretary of State for Scotland, the Treasury and COSLA representatives on 15 October. On 31 October, he again wrote to the chancellor outlining the agreement reached that Scottish local government be represented at future meetings between the Treasury and the Local Government Association on the situation as it develops. He has offered to meet the chancellor to review progress and discuss the wider developments in financial services and the economy. To date, no response has been received.

Christine Grahame: Does the First Minister agree that it would be indefensible if HM Treasury, which has used our money to bail out banks—and we have heard what they have used that money for in some cases—is not prepared, in the event that the Secretary of State for Scotland's persuasive powers fail him during his trip to Iceland, to underwrite those potential losses to local authorities and charities? Does the First Minister agree that, together with hikes in energy bills, such losses will put unacceptable pressures not just on our local authorities but on household budgets? I am sure that he is hearing that concern on the doorsteps of Glenrothes.

The First Minister: I think that, in the current situation, the guarantees that have been indicated for retail depositors should be extended to wholesale depositors. Given that we know that there were some early indications of the position as it developed, and given that bodies such as the Audit Commission south of the border are among the organisations that have been hit, I do not think that it is reasonable to hold individual councils responsible.

On the wider concern about heating bills, I absolutely agree. The biggest concern that I detect for homes in Scotland is the heating bills that are thumping through people's letterboxes that show increases of 30, 40 and 50 per cent. In that light, it is welcome that the additional £10 million for the central heating programme that was announced by the Cabinet Secretary for Health and Wellbeing will ensure that record numbers of installations of new heating systems will be pursued throughout Scotland and in Fife.

Alison McInnes (North East Scotland) (LD): I welcome the discussions that the First Minister and his team have had with the Treasury. Is he aware that the Minister for Local Government, John Healey MP, has given an assurance to the Local Government Association that any English local authorities facing severe short-term difficulties will be offered assistance? Will the Scottish Government give the same assurance to our local authorities? Has the Cabinet Secretary for Finance and Sustainable Growth indicated to COSLA that he is willing to consider ways to help any Scottish council that faces cash-flow difficulties arising from such deposits not being returned at contract times?

The First Minister: The cabinet secretary is in constant contact with COSLA on that issue. Indeed, COSLA and the cabinet secretary are at one in their approach to the issue. However, I know that Alison McInnes would not like to divert attention from the fact that financial regulation is a UK Government responsibility. We would not want to remove from the Treasury the obligations that it most certainly has in that regard.

Lewis Macdonald (Aberdeen Central) (Lab): Does the First Minister recall the Government's approval in December of Aberdeen City Council's much delayed schools renewal programme on the basis of £120 million in funding from an Icelandic bank that has since gone into administration? If it is confirmed in the next few days that new private finance providers are required to get the job finished, will the Government offer whatever financial guarantees may be necessary to bring such financiers on board?

The First Minister: The Cabinet Secretary for Finance and Sustainable Growth is already in correspondence with Aberdeen City Council and is

looking at the situation as it develops. Although the local member said that the schools project had been much delayed, I know that he welcomed the fact that the current administration on Aberdeen City Council pursued the project. I know that we will be at one in ensuring that that project—and the non-profit distribution model schools that it brings into being—comes to fruition, to the great benefit of the folk of Aberdeen and north-east Scotland.

David McLetchie (Edinburgh Pentlands) (Con): Does the First Minister agree with the comments of his colleague Keith Brown, who told the chamber last week that the United Kingdom Government was guilty of “despicable bullying of Iceland”, or does he think that the steps that were taken were justifiable in order to protect the deposits of Scottish savers, including local authorities and charities?

The First Minister: The detail that has emerged about the early discussions that took place some time ago between the Icelandic Government and UK Government officials at the highest level indicates that there was rather more warning of the developing situation than we were perhaps led to believe at first. I think that it is right and proper that action is taken to protect the interests of Scottish and UK depositors. I am not altogether convinced that it is the wisest thing to do to give people the impression that they are being branded as terrorists or as part of a terrorist organisation. Negotiations, which I understand are now proving fruitful and beneficial, are not best conducted in that way, by name calling or by depicting people as something that they obviously are not.

Repossessions

5. Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): To ask the First Minister what further actions the Scottish Government will take to ensure that repossession is used only as a last resort by lenders when home owners are having mortgage repayment difficulties. (S3F-1160)

The First Minister (Alex Salmond): The Mortgage Rights (Scotland) Act 2001 provides significant protection for those at risk of repossession. Owners have the right to ask the sheriff to give them time to pay off arrears and lenders are obliged to comply fully with Financial Services Authority regulations.

In addition, Government officials met the Council of Mortgage Lenders on 23 October. The CML confirmed that its new guidance on repossession, which was issued that day, applies to all United Kingdom members, and emphasised that lenders should consider all alternative options to repossession when dealing with home owners in mortgage difficulties.

This Administration believes that home owners in Scotland have protections that are better than the protections in the rest of the UK, given that the Government has made available extra money to support families who are struggling to meet their mortgage payments—that is not in place in England and Wales. As part of our action plan on the economy, we are of course keeping the situation under review.

Cathy Jamieson: There might be disagreement about whether protections in Scotland exceed those south of the border. A number of commentators have suggested quite the opposite. Will the First Minister therefore agree to consider the introduction of pre-court protocols in Scotland and to report back to the Parliament on the matter? Given that the Parliament legislated in 2004 to regulate the private rented sector, will he urgently consider using the powers that are available to this Parliament to regulate so-called sale-and-leaseback landlords?

The First Minister: Cathy Jamieson will acknowledge that the Deputy First Minister made an initiative on the matter in the past few days. The Deputy First Minister is looking for the UK Government to implement as soon as possible the recommendations of the Office of Fair Trading report on sale and rent back in the private sector.

As Cathy Jamieson well knows from experience, the legal system in Scotland is substantially different from the system in England and Wales. Before we go down the route of thinking that pre-court protocols are a panacea, we should consider the words of Judge Robert Jordan, the chairman of the Civil Justice Council, which drafted the “Pre-action protocol for possession claims based on mortgage or home purchase plan arrears in respect of residential property”. On 22 October, he said:

“The protocol does not change the courts’ limited powers to deal with these cases.”

The Scottish Government is by all means willing to listen to suggestions and examine further improvements that can be made. However, we and home owners in Scotland should take comfort that practical arrangements are in place in Scotland, not least the new home owners support fund, which has a budget of £25 million over the next two years. The fund is in place now to help people who cannot access support elsewhere to stay in their homes. No such scheme is in place elsewhere in the UK, despite some soundings to that effect, so my remark that the position on public support is in many respects better in Scotland than it is elsewhere in the UK was well justified.

Brian Adam (Aberdeen North) (SNP): What representation has the Scottish Government made

to the UK Government in relation to the OFT report, "Sale and rent back", which calls for regulation by the FSA to ensure that home owners who face financial difficulties are protected from rogue companies?

The Presiding Officer (Alex Fergusson): The question has almost been answered, but the First Minister may make a brief comment.

The First Minister: The issue is worthy of further explanation, because it is important to the people of Scotland. People who are under pressure from threatened repossession are worried about sale-and-rent-back schemes in the private sector.

The OFT report specifically called for the compulsory regulation of sale-and-rent-back schemes and for the Department for Work and Pensions to provide

"greater clarity on the eligibility of sale and rent back tenants for housing benefit."

Members will acknowledge that the recommendations touch on what are currently UK Government responsibilities. Therefore, it is entirely appropriate that the Deputy First Minister should this week have written to the UK Minister for Trade, Investment and Consumer Affairs, to see that the recommendations, which I am sure are supported by members of all parties, are fully and properly implemented.

Lord Advocate

6. Bill Aitken (Glasgow) (Con): To ask the First Minister whether the Scottish Government, in liaison with the United Kingdom Government, has plans to redefine the role of the Lord Advocate. (S3F-1147)

The First Minister (Alex Salmond): We have had no discussions with the UK Government on redefining the role of the Lord Advocate. Our national conversation—to which I know Bill Aitken is on the cusp of submitting a contribution—is considering all aspects of our constitutional arrangements, but we have no immediate plans to change the role of the Lord Advocate.

Bill Aitken: The First Minister should never anticipate my actions, but he will be aware of the problems caused by the volume of appeals on so-called devolution issues. Many may be spurious, but a great many are related to the currently defined role of the Lord Advocate in relation to convention rights legislation. Is there not a case for seeking, through the UK Government, an amendment to the Scotland Act 1998 to exclude the acts of the Lord Advocate from section 57(2) or to redefine the Lord Advocate's role between the prosecution function and that of the Government's legal adviser, which would seem to

be one way of obviating what is becoming an increasing problem?

The First Minister: I do not anticipate what Bill Aitken is going to do but, when we came to office and one of our first actions was to agree that the Lord Advocate and Solicitor General would no longer routinely attend the cabinet, emphasising the separation of the political and judicial, I am pretty certain that Bill Aitken welcomed that move.

Bill Aitken should also be aware that the Lord Advocate has indicated on several occasions that she is open to the constructive consideration of the future of the role. For example, in the KPMG annual law lecture last February, she said:

"I think it is perfectly valid and proper for people to debate the proper role of Law Officers. I also believe it is important, though, for that debate to be informed not only by history but, crucially, by the needs of a modern 21st Century ... Scotland."

With that in mind, Bill Aitken invites me to consider amendments to the Scotland Act 1998. I must confess that I am considering amendments to the Scotland Act 1998, although the amendments that I have in mind may be more all-encompassing than those that Bill Aitken has in mind. However, there is a degree of consideration and flexibility, and if we pursue that in good faith and while acting jointly, I am sure that Bill and I will come to the right conclusions.

12:32

Meeting suspended until 14:15.

14:15

On resuming—

Question Time

SCOTTISH EXECUTIVE

Health and Wellbeing

The Deputy Presiding Officer (Alasdair Morgan): Good afternoon. The first item of business is questions on health and wellbeing. I remind members that the Presiding Officer stated last week that they should keep their questions brief and in the form of a question, rather than a statement, and that multiple questions should not be asked. If members fail to adhere to that advice, we may have to stop them.

British Dental Association (Meetings)

1. Brian Adam (Aberdeen North) (SNP): To ask the Scottish Executive when it next plans to meet the British Dental Association. (S3O-4729)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): My officials have meetings with the British Dental Association planned for 10 November and 19 November. The Minister for Public Health last met the BDA on 9 September at its offices in Stirling.

Brian Adam: I note that we have in recent times seen an improvement in the number of people who have registered with dentists. However, given that there are wide discrepancies among areas—only 38 per cent of people in my patch are registered, whereas 71 per cent of people in Glasgow are registered—what steps does the cabinet secretary plan to take to encourage the BDA and its members to return to delivering NHS dentistry across Scotland and not just in some areas?

Nicola Sturgeon: Brian Adam is right to point out that the latest statistics show that, across Scotland, we have the highest number of registrations with dentists for both adults and children since registrations were introduced in October 1990. That is extremely good news and I know that everyone in the chamber will welcome it.

Brian Adam is also right that some areas of the country have registration rates that are unacceptably low—I include the Grampian NHS Board area in that. Work is continuing to improve registration rates. It is important that we continue to work at two levels. First, we must work at Government level, which is why we pay a range of allowances to encourage NHS commitment from dentists. The Minister for Public Health also

announced earlier in the year an agreement to provide financial assistance to dentists who do not meet the NHS commitment criteria but who, nevertheless, treat large numbers of NHS patients. Of course, dentists can access the Scottish dental access initiative.

Secondly, it is important that action is taken at health board level. NHS Grampian is on target to open six new dental premises across Grampian in the next 12 months, each of which will have between one and four surgeries. The Government has made available £6 million to NHS Grampian under the primary and community care modernisation programme for next year and the year after. A priority for that funding is the development of new dental centres.

I hope that Brian Adam accepts that a range of work is under way. We will continue that work until we get dental registrations to a level that we all want—not just on average across the country but in every area.

Mary Scanlon (Highlands and Islands) (Con): In evidence to the Health and Sport Committee during the budget process, the British Dental Association said that it would need £600 million to provide greater access to NHS dentistry—in other words, £245 million more than it receives at present. What is the cabinet secretary's response to that request?

Nicola Sturgeon: I saw the evidence that the BDA submitted to the Health and Sport Committee. No doubt some of it will form the basis of future discussions that we will have with the BDA. I am not entirely clear what the basis of the BDA's calculation is. I think it might have been making some comparisons between independent dental practitioners and salaried dentists, which are not always valid comparisons.

There has been substantial additional funding for dentistry in recent years. It was started under the previous Administration and, I am pleased to say, has continued under this Administration. Increases in the fees that are paid to dentists are subject to the Doctors and Dentists Review Body recommendations, which we implemented fully last year. We will respond to the recommendations for next year when we get them in due course.

As I said in response to Brian Adam's question, we make substantial funding available to dentists through the various allowances that are in place to promote and encourage dentists to do as much NHS work as possible.

The Deputy Presiding Officer: Question 2 was not lodged.

National Health Service Dentists

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

To ask the Scottish Government what factors explain the recently announced increase in the percentage of the population registered with an NHS dentist. (S3O-4684)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): Several factors are at play. First, the number of national health service dentists increased by 4.1 per cent in the year to March 2008. Secondly, through the Scottish dental access initiative, we are funding the establishment and expansion of additional dental surgeries. Thirdly, the extension of the registration period to 36 months has strengthened the relationship between patients and dentists. Fourthly, payments that are linked to the level of NHS commitment mean that dentists are incentivised to maintain their patient registrations.

All those factors contribute to the increase in registrations as we begin to reverse the long-term decline in NHS dentistry. Nevertheless, as I said in response to question 1, the level of registrations is still unacceptably low in some parts of Scotland. I expect all NHS boards to continue to put plans in place to improve access further for their populations.

Derek Brownlee: Is the third factor not the overwhelming one? The previous Government extended the period in which a patient could go without visiting an NHS dentist from 18 months to 36 months before being deregistered. That means no deregistrations between July last year and April next year. Before that change, 650,000 patients were deregistered for non-attendance each year. The increase in registrations in the past year was only 445,000. Does not that indicate an underlying trend that is still negative? If the change in the registration period had not happened, would the minister be announcing a fall rather than an increase in the number of registered patients?

Nicola Sturgeon: It is not like Derek Brownlee to take the glass-half-empty approach to life. He is usually much more optimistic than that, and than some of his colleagues sometimes are. In my first response, I openly acknowledged that lengthening the registration period to 36 months was undoubtedly a factor in the increased number of registrations. However, nobody who studies dental health in any depth could conclude anything other than that other factors are at play, too. Surely Derek Brownlee is not suggesting that a 4 per cent increase in the number of dentists has had no impact on registrations. I also presume that he does not suggest that funding new dental surgeries and the payments that we make to dentists to encourage them to register more NHS patients have no impact on the number of

registrations. All those factors play a positive part in reversing the long-term decline that I spoke about. Yes—the 36-month period is one of the factors, but the bottom line is that more people are registered with a dentist than are being deregistered. That must be a good thing.

As Derek Brownlee knows, the dental action plan that the previous Administration published contained a commitment to making registration a continuing rather than time-limited system, with defined responsibilities for patients and dentists. That commitment raises a range of practical issues, which we are exploring. We will make further announcements in due course.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Is the cabinet secretary aware that, despite the initiatives in the Grampian NHS Board area that she mentioned, adult constituents of mine still cannot register with an NHS dentist? The number on the waiting list has risen by 2,000. Surely the solution is to enter negotiations with the BDA and to make it attractive for dentists who have gone private to return to the national health service to tackle the backlog of adults who are waiting to register.

Nicola Sturgeon: I absolutely recognise the picture of Grampian that Mike Rumbles paints. I openly acknowledged that in response to Brian Adam's question. That trend is historic. If Mike Rumbles has magic solutions to the problem, I am keen to hear them—believe me. However, the reality is that no shortcut exists. The solutions are those that we are pursuing. They are bearing fruit, as I said in my other answers, but there is much work still to do. Some of NHS Grampian's plans, such as opening new dental premises and encouraging independent dentists to take on more NHS patients, will have a positive impact.

It might have escaped Mike Rumbles's notice—although I suspect that it has not—that we are taking measures to encourage dentists who do private work to do more NHS work. That is what the range of allowances is about and that is why we have entered into an agreement through the BDA to provide financial assistance to dentists who do not meet the full commitment criteria but who nevertheless treat NHS patients. A range of other incentives are in place. On top of that, NHS boards can employ salaried dentists.

I absolutely acknowledge the urgency of the situation. As long as any patient in Scotland cannot register with a dentist, my job—and our job—is not done and we need to continue to work even harder.

Social Rented Housing

4. Karen Whitefield (Airdrie and Shotts) (Lab): To ask the Scottish Executive what

investment it is making in the development of social rented housing. (S3O-4727)

The Minister for Communities and Sport (Stewart Maxwell): The Scottish Government is investing in social rented housing in a number of ways. Our main investment will be through the affordable housing investment programme, under which we plan to invest a total of £493 million in 2008-09 in the development of affordable housing. In addition, we recently announced the acceleration of £100 million AHIP moneys. That will see an extra £30 million being spent in 2008-09, most of which will be invested in social rented housing.

Under its rural homes for rent pilot scheme, the Scottish Government will also fund additional new-build affordable housing for rent in rural Scotland. Grant funding will be targeted at landowners in pressured rural housing markets where registered social landlords have been constrained in meeting local housing and homelessness need.

We have also recently agreed with the Convention of Scottish Local Authorities details of the criteria that will be used in allocating the £25 million that we announced to encourage council house building.

Karen Whitefield: Having spoken to a number of housing associations, I understand that the Government is keen for additional housing investment to be spent on shared equity properties. In the current situation, in which many people are reluctant to take out additional loans, does the minister feel that that priority is appropriate? Would it not be better to direct all the money at homes for rent?

Stewart Maxwell: This is not an either/or situation. Investment is required in both social rented homes and low-cost home ownership. The vast majority of this Government expenditure is on social rented homes. The extra investment is being spent on securing new land for housing, buying off-the-shelf units from private builders, and accelerating projects that would have taken place further down the track. Clearly, the bulk of the money that is being invested is going into social rented homes.

We have to recognise the fact that not only did Homes for Scotland, other sectors of the building industry and many others call for extra investment in this area, the vast majority of people want to own their own home. There is a demand for that. Shared equity is an obvious solution in trying to assist people on to the housing ladder.

The Government does not take a position whereby we encourage one type of housing tenure over another. The fact remains that, where we can help people, and where it is affordable for us to do that and it is the right choice for people, it is

entirely reasonable and correct for the Government to support people through shared equity schemes. I repeat what I said: the vast bulk of spend through the affordable housing investment programme is in social rented housing.

Jamie McGrigor (Highlands and Islands) (Con): The building of affordable houses is vital for social rented housing. Will the minister revert to the previous rules for housing association grants, under which far higher levels of grant were given to associations than is the case under the new rules? Does he accept that the new rules are seriously inhibiting the building sector, housing associations and, above all, families that need homes?

Stewart Maxwell: I am sorry, but I do not accept the premise of Jamie McGrigor's question. The fact is that if we had carried on in the same vein, we would have spent more money on building fewer houses, which would have been neither a reasonable option nor a sensible option.

Certain individuals have put about a lot of misinformation on the housing association grant. The HAG levels that we introduced in April are a target and not a cap. Negotiations take place around the country on HAG levels for individual projects. We have always accepted, and continue to accept, that HAG levels can vary, particularly in remote and rural areas and island communities where added costs are to be found. As I said, HAG negotiations are undertaken on that basis.

National Health Service Boards (Meetings)

5. Bill Butler (Glasgow Anniesland) (Lab): To ask the Scottish Executive when it next plans to meet with the chief executives of national health service boards. (S3O-4694)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): The chief executive of NHS Scotland meets the chief executives of NHS boards on a monthly basis to discuss a wide range of issues. The next meeting is scheduled for 19 November. I meet with chief executives on an individual basis regularly, for example, at their annual review meetings. Of course, I have regular meetings with NHS chairs.

Bill Butler: The cabinet secretary will be aware of the National Deaf Children's Society's campaign to gather data on the number of deaf children in Scotland. When she next meets the chief executives of NHS boards, will she discuss the progress of the NHS-delivered universal newborn hearing screening programme that was introduced in Scotland in 2005? Specifically, will she consider collecting information from NHS boards on the number of children who have to date, through that programme, been diagnosed with a hearing loss,

so that such a data collection mechanism could form the basis of a national register of children who have hearing loss, which would inform future service developments and allow the impact of the hearing screening programme to be monitored? Does she accept that such a register would help colleagues in the education and social care sectors to plan and deliver effective interventions in the early years of a deaf child's life?

Nicola Sturgeon: I thank Bill Butler for raising a serious issue and will do him the justice of giving his proposal serious consideration. I pay tribute to the National Deaf Children's Society and the work that it does on a range of issues, especially its collection of data on the number and circumstances of deaf children in Scotland, which Bill Butler mentioned.

I will be more than happy to mention the issues that Bill Butler raised around the universal screening of newborns programme in my discussions with NHS boards. I will certainly give due consideration to his specific call for a register and will revert to him when I have had the opportunity to do so.

Ian McKee (Lothians) (SNP): In its meetings with the chief executives of NHS boards, will the Scottish Executive question in detail their plans for tailoring health service resources to the differing clinical needs of the people who live in their areas?

Nicola Sturgeon: Indeed. I might be wrong, but I assume that Ian McKee refers to the need to ensure that we can target resources appropriately on areas of deprivation and inequality which—as members will be aware from “Equally Well”, the report of the ministerial task force on inequalities—is a Government priority. I am sure that that is a priority that is shared by members of all parties.

I welcome the contribution that the Health and Sport Committee recently made to that debate by considering how, in our discussions on the general practitioner contract, we can deal with some of the issues around the contract that might not allow us to target resources effectively on people in deprived communities. I am happy to give Ian McKee and others an undertaking that health inequalities, which are shameful and unacceptable in a country that is as rich as Scotland is, will remain at the top of the Government's priority list.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): At her next meeting with NHS chief executives, will the cabinet secretary mention provision of cross-boundary services? My concerns relate particularly to the stance to obesity services that seems to be taken in Glasgow. In the past, people from the Lanarkshire area were able to receive such services in Glasgow, but it appears that people from

Lanarkshire are now being treated differently from people who reside within the Glasgow boundary.

Nicola Sturgeon: I know that that is an issue that Cathie Craigie raised on the margins of this morning's debate on patients' rights. I will be more than happy to look into the circumstances to which she has drawn attention, on which I think she might already have corresponded with me. Although there is a general issue, which I will be happy to look into, I understand that, particularly with obesity services, there are issues of clinical decisions and recommendations at stake. I will be more than happy to have further discussion with Cathie Craigie on the specifics of her constituency cases and to come back to her in due course.

Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): When the cabinet secretary meets the chief executive of Highland NHS Board, I presume that they will discuss the recent publicity surrounding the scary cuts in funding for that organisation. Will she take the opportunity of that meeting to look extremely favourably on NHS Highland's bid for finance for a four-surgery dental unit in Thurso?

Nicola Sturgeon: I have already mentioned the resources that are being made available to NHS Grampian from the primary and community care modernisation fund for next year and the year after. Dental premises will be that fund's priority in those two years. I do not have with me the figure for NHS Highland's allocation, but it has been given such an allocation, so I certainly expect it to use it to upgrade and modernise its dental premises.

The next time I meet representatives of NHS Highland, I will be delighted to tell them that, in addition to the record resources that it has already been allocated by this Government for this financial year, it will get an additional £5 million out of the £90 million over and above base allocations that we are making available this year to help drive down waiting times for patients, which is a key priority.

National Health Service Board Elections (Ayrshire and Arran)

6. Kenneth Gibson (Cunninghame North) (SNP): To ask the Scottish Government how patients in Ayrshire and Arran will benefit from having a directly elected NHS board. (S3O-4738)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): Having a directly elected element on an NHS board will introduce greater awareness of local issues and opinions at the very heart of a board's decision-making process, which I believe will benefit all patients.

Kenneth Gibson: Does the cabinet secretary agree that democratically accountable health boards are fundamental to an effective health service and to delivering for patients? Will she confirm that had elected health boards been in place a couple of years ago, some unfortunate proposals, such as the suggested closure of vital accident and emergency units, would not have required her direct intervention?

Nicola Sturgeon: I am a great believer in democracy, and I know that it is being exercised in at least one part of Scotland today, which is why there are not more members in the chamber. I agree with Kenny Gibson that introducing democratic accountability into health boards is an important step forward. It is right in principle, and will lead to better decision making.

As I have said previously, I have never argued—and will never argue—that having directly elected people on health boards will remove the need for health boards occasionally to take decisions that are difficult and indeed unpopular. However, I believe that having directly elected people on health boards will ensure that understanding of local issues is enhanced, which will improve the decision-making process and the decisions that flow from it.

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): I am glad to hear the cabinet secretary place her faith in the democratic process. Of course, that does not come cheap. Ayrshire and Arran NHS Board's estimate of the cost to it of around £800,000 every four years is causing it some concern. In the context of its being required to achieve £11 million per annum of cash-releasing efficiency savings, it has described that as "a significant amount", which it believes could better be spent on services for patients. Does the cabinet secretary believe that NHS Ayrshire and Arran has accurately estimated the cost of the elections to health boards? If so, will she ensure that that money comes as an additional sum rather than being taken from front-line services?

Nicola Sturgeon: I encourage Cathy Jamieson and, indeed, representatives of NHS Ayrshire and Arran—or any other health board—to read the terms of the Health Boards (Membership and Elections) (Scotland) Bill. If it is passed, the bill will commit only to piloting elections to health boards. The cost of pilot elections to health boards is estimated at £2.86 million. I have made it clear that that money will be funded centrally from the health directorate's budget.

Any decision on roll-out of health board elections will be taken by Parliament, based on the findings of the pilot elections. Therefore, decisions on spending on that are probably one, if not two, comprehensive spending reviews away. I believe that that money should be funded centrally rather

than from health board budgets, as Cathy Jamieson knows, although I cannot commit future Governments to any course of action. However, I dare say that that issue will be to the fore in people's minds when they scrutinise roll-out.

NHS Greater Glasgow and Clyde (Meetings)

7. Bashir Ahmad (Glasgow) (SNP): To ask the Scottish Government when the Cabinet Secretary for Health and Wellbeing last met officials of the board of NHS Greater Glasgow and Clyde. (S3O-4730)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): I regularly meet all NHS chairs to discuss matters of importance to health and the NHS in Scotland. The most recent meeting was on 27 October. I also met the senior team of NHS Greater Glasgow and Clyde on 18 August this year when I chaired the board's annual review. The board's performance on key national health targets including health improvement, efficiency, waiting times and service changes was discussed.

Bashir Ahmad: Last week, NHS Greater Glasgow and Clyde decided against removing health visitors from local general practitioner practices. Does the cabinet secretary welcome the health board's announcement, and does she agree that the original proposal was ill-advised? How will the future role of health visitors be promoted and protected throughout the country?

Nicola Sturgeon: I thank Bashir Ahmad for his question and for his interest in an important issue that has raised a number of concerns across NHS Greater Glasgow and Clyde. I am very pleased indeed that NHS Greater Glasgow and Clyde has agreed a way forward on this issue with the local medical committee. At its meeting towards the end of October, the committee formally agreed with the health board on proposals that will guide the local planning and implementation groups. The board intends to write to all health visitors to share the outcomes. The discussion will continue with the trade unions.

Under the principles that have been agreed, every GP practice will have an attached health visitor within the primary health care team. Every patient and every GP practice will know who their health visitor is and how to contact them. I encourage all GPs to work with their local community health and care partnership planning groups, once they are up and running again, to ensure that constructive progress can be made on this issue.

Bashir Ahmad and others will know that we are currently piloting the review of nursing in the community in four health board areas. I have said before that I inherited the pilot scheme from the

previous Administration and that I have an open mind on its conclusions. We will study the findings and experiences carefully before making any further decisions.

National Health Service Dentists (Highlands and Islands)

8. Rob Gibson (Highlands and Islands) (SNP): To ask the Scottish Government what action it is taking to ensure that all adults and children in Caithness and other parts of the Highlands and Islands are able to register with an NHS dentist. (S3O-4739)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): Responsibility for the overall provision of NHS general dental services rests with NHS boards.

NHS Highland has already expanded its salaried dental services and has a number of other projects planned to expand services further. New dental surgeries have been established in Wick, Fort William and Inverness, and there are plans to establish new premises in Portree, Grantown, Invergordon and Tain. Those developments will result in the creation of an additional 29 dental surgeries and the registration of a minimum additional 29,000 patients under NHS arrangements.

NHS Highland is raising awareness of the grants that are available under the Scottish dental access initiative, and it has been provisionally allocated £4.14 million from the primary and community care modernisation fund.

Rob Gibson: I thank the cabinet secretary for that detailed answer. At present, there is a shortfall of graduates who are able to take up posts. For example, in Orkney, around 2.4 full-time posts are required. The figure in Caithness would probably be double that. Will the cabinet secretary give us an idea of the flow of graduates who will be able to fill the posts in the new dental premises that we are about to build?

Nicola Sturgeon: Rob Gibson raises an important point. As we expand the opportunities and the incentives for dentists to do NHS dentistry, we must ensure that the flow of dentists through education and into those posts is as smooth as possible. That is one of the key reasons why the Government took the decision to open the Aberdeen dental school. It opened on 6 October, and I am pleased to say that it has now accepted its first intake of students. That will increase the number of students training in Scotland, so in time it will increase the number of graduates.

In the 2007-08 academic session, 492 students across Scotland applied for the dental bursary.

That will ensure a future stock of dentists for NHS dentistry.

Liam McArthur (Orkney) (LD): I do not know whether the front page or the editorial of last week's *Orkney Today* featured among the cabinet secretary's press cuttings. If so, she will have seen that NHS Orkney's chief dental officer, Moya Nelson, described the situation in my constituency as a "crisis". Rob Gibson spoke about the statistics on access, which bear little relation to what is happening in Orkney. They ignore the loss since June of three dentists, which has resulted in 4,000 people being added to the existing 1,500 who are already on the waiting list to register with a dentist. The total population is 20,000.

What discussions has the cabinet secretary had with NHS Orkney about that crisis in dental provision? I accept what she says about there being no magic solutions, but what steps is the Government taking to address the crisis? I am not talking just about having more staff but about having more available spaces. What steps has she taken to address what Moya Nelson describes as the "slow" progress in the Scottish programme for overseas recruitment of dentists?

The Deputy Presiding Officer: It is clear that the member was not present when I talked about long preambles and multiple questions. Nevertheless, I call the cabinet secretary to answer.

Nicola Sturgeon: I fear that I am at risk of repeating myself. As I said previously, I do not for a moment deny the scale of the challenge that we still face with regard to dentistry in Scotland, notwithstanding the progress that has been made in some parts of the country.

I discussed issues around NHS dentistry with officials from NHS Orkney when I chaired its annual review earlier this year. The member was present for some of that meeting, although I do not know whether he was there for the discussions on dentistry.

I will not repeat my summary of the action that we are taking to try to improve the situation, but there are two key points. One of those relates to staff: we should not underestimate the importance of having a greater supply of dentists, and it is encouraging that there has been a 4 per cent increase in dentists and that the dentists that we have are doing as much NHS work as possible, since we have put so much emphasis on incentives for dentists to do NHS work.

The second key point, to which Liam McArthur referred, is about dental premises. We have made improving and expanding dental premises the key priority for the primary and community care modernisation fund for next year and the year after. All NHS boards will, as I have said, receive

an allocation from the fund that will enable them to make even further progress on the issue.

Wheelchair and Seating Services Modernisation Draft Action Plan

9. Michael McMahon (Hamilton North and Bellshill) (Lab): To ask the Scottish Executive what progress is being made towards implementing the wheelchair and seating services modernisation draft action plan. (S3O-4714)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): A final costed action plan, taking account of comments from the public, and recommended by the project board, will be available for my consideration and approval in December 2008. Once the plan is approved, implementation will commence early in 2009.

Michael McMahon: Does the cabinet secretary share the concerns of disability groups that several recommendations in the 2006 report, "Moving Forward: Review of NHS Wheelchair and Seating Services in Scotland", which are critical to the success of the modernisation plan, have been omitted from the action plan? Those include the establishment of a single national structure, which would enable uniform development throughout Scotland; the monitoring and evaluation of standards; and the removal of the eligibility criteria, which are used to restrict access to resources.

Does the cabinet secretary believe, since almost one quarter of the original recommendations in the report do not appear in the action plan, that the expectation of wheelchair users and disability groups can be met by what remains of the modernisation plan?

Nicola Sturgeon: Yes, I hope that the expectations can be met. That was the objective behind the original plans, which—as the member is aware—commenced under the previous Administration. It is also why the Government has set aside substantial additional funding—some £16 million over the next three years—for the project. There will, of course, be other aspects of service redesign that do not require extra funding, but require different measures.

I said in my original answer that a final costed action plan will be available for my consideration in December this year. It has not been approved yet because we are in the process of taking comments from the public and from wheelchair service users. I expect that any concerns such as those that Michael McMahon raised will be submitted during that period, and I will take them fully into consideration before making my final decision later in the year.

Trish Godman (West Renfrewshire) (Lab): A key omission in the action plan is the development of agreed response times for care and maintenance of wheelchairs. Are the times for repair and maintenance part of the patients' rights proposal that was debated this morning? If not, will the cabinet secretary seriously consider including that in the action plan? It is a problem of mobility, so it should be part of patients' rights in relation to response times. It is the same as having a hip replacement: if someone is immobile, they are immobile.

Nicola Sturgeon: I agree that the issue of waiting times is important. The member makes the powerful point that someone who relies on a wheelchair and does not have proper or adequate access to that wheelchair has their mobility affected. That is similar to other conditions, and wheelchair users should therefore be treated as other such patients are.

As the member is aware, there was interim funding of £3 million to help to reduce waiting times in the short term. I accept that that does not address the problem that faces the service in the longer term. The intention is for the action plan to do that and to help us to support the 18-week waiting time target by 2011 applying to all aspects of health care delivery. I accept absolutely the premise of the question.

Secure Forensic Mental Health Services (Young People)

10. Charlie Gordon (Glasgow Cathcart) (Lab): To ask the Scottish Executive whether it intends to develop a secure forensic mental health service for young people. (S3O-4701)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): Improving the mental health and wellbeing of children and young people is a priority for the Scottish Government. We are working with NHS boards and other partners to deliver the specific objectives and commitments that we have set for children's and young people's mental health.

There is already a United Kingdom-wide secure forensic mental health service for young people, to which NHS boards can refer young patients when such services are required. The specialised nature of the forensic services means that the number of children who require to be referred to the service by NHS boards each year is very small—one or two in each of the past six years.

I acknowledge that referring young people to those services means that they will be cared for outwith their home area. Any proposal to develop a similar service in Scotland would need to balance the understandable desire to offer a

service for young patients as close to home as possible with the need to offer a safe and effective service. That would be difficult to provide for patients who may have very different diagnoses and care needs. Even if such a service were developed in Scotland, it would be unlikely to be able to cater for the full range of conditions that required treatment. Access to the UK service would therefore still be required.

Charlie Gordon: I have a constituent whose adolescent son has been placed in secure accommodation in Newcastle in the north of England as there is no such provision in Scotland. Does the cabinet secretary acknowledge that, small though the numbers are, such Scottish patients and their families feel that they deserve better in the form of a service in Scotland?

Nicola Sturgeon: I entirely understand the motivation of the question and the frustrations that Charlie Gordon's constituent will feel. The situation that he describes and which I described in my substantive answer is not new—it has always been the case in Scotland. The issues are difficult, as are the judgments, and I repeat what I said earlier: we must strike a balance between the understandable desire to provide services close to home and the need to ensure that any service is safe and effective. The small number of patients means that it is difficult to provide such services on a more local basis. We are talking about one or two patients a year over the past few years, and I do not need to spell out to members the difficulties in service provision that that raises.

That said, I will continue to reflect on the points made by Charlie Gordon. If he wants a further discussion about the specific circumstances of his constituency case, I will be more than happy to have one.

Christine Grahame (South of Scotland) (SNP): The cabinet secretary will recall that, this morning, I raised the case of a young woman with mental health issues who was self-harming and the insensitive and frankly counterproductive attitude of the accident and emergency departments that have dealt with her. In her discussions with NHS boards, will the cabinet secretary raise the issue of training, of A and E staff in particular, in dealing with young people and others who have mental health issues and need medical treatment, for instance when they self-harm? The situation is not satisfactory.

Nicola Sturgeon: Christine Grahame did indeed raise that important issue in our debate on the patients' rights bill. All staff who work in the NHS need an awareness of, and an appropriate level of training and education in, dealing with people with mental health problems, which in some cases are extremely challenging. Mary Scanlon, Christine Grahame and others have raised that issue

consistently, and I know that members generally agree that we have made progress in mental health services in recent years. However, we have a considerable way still to go, not least—returning to Charlie Gordon's question—in child and adolescent mental health services. We are encouraging all NHS boards to prioritise that issue in both their policies and investment decisions.

The Deputy Presiding Officer: Question 11 was not lodged.

Media and Communication Services (Hospitals)

12. Willie Coffey (Kilmarnock and Loudoun) (SNP): To ask the Scottish Government what steps it is taking to provide value-for-money media and communication services for hospital in-patients. (S3O-4734)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): Arrangements for and decisions regarding media and communication services, and patient services in general, are in the first instance matters for NHS boards, taking into account the needs of their local communities.

Willie Coffey: The cabinet secretary might be aware that customers of the Patientline service were paying up to 49p per minute to receive a phone call, and at the rate of £98 per month to watch television while in hospital. Will she take steps to ensure that hospital in-patients will, in the future, be able to speak to relatives and access TV and media services at reasonable cost and with reliability of service?

Nicola Sturgeon: I understand the concerns that patients and their families have about such services. As I said, whether such services are provided in hospitals is a matter for NHS boards. Any Patientline services are an addition to the telephone or television services that an NHS board would routinely make available, so they are a matter of choice for patients; patients are not compelled to use them. Nevertheless, I understand the concerns.

Members might be aware that Patientline was acquired by Hospedia Ltd on 25 July, Patientline having gone into administration. The Office of Fair Trading announced in October that it has referred that acquisition to the Competition Commission, and a report is expected by March next year. I am sure that the Parliament will want to be updated on that issue at that time.

United Nations Convention on the Rights of the Child

The Deputy Presiding Officer (Alasdair Morgan): The next item of business is a debate on the United Nations Convention on the Rights of the Child.

14:56

The Cabinet Secretary for Education and Lifelong Learning (Fiona Hyslop): I am grateful for the opportunity to discuss children's rights in Scotland. It is a fitting time for the Parliament to reflect on Scotland's position following the conclusion of the most recent reporting cycle to the UN Committee on the Rights of the Child.

Of course, everyone agrees that all children should have the best start in life if they are to fulfil their potential. We want them to be happy, to have fun and to grow up safe and strong. For children to achieve their full potential, to flourish, to thrive and to develop into successful learners, confident individuals, effective contributors and responsible citizens, they need to understand their rights and to be given every support to realise those rights. They need to be protected from harm, but also to have opportunities to participate, to express their views and to help us to see the world through their eyes.

Scotland already has a strong tradition of protecting, including and providing for children. To ensure that we meet the very highest standards, we must aim for the international gold standard, which is the UN Convention on the Rights of the Child.

The Scottish Government has made clear its commitment to the provisions of the UN Convention on the Rights of the Child and our intention to use it as a driver for improvements to children's rights. It is a powerful tool to help deliver the improved outcomes that we want for all Scotland's children.

Children and young people are part of public life and they value taking an active part. Scotland benefits when children and young people express their views and see those views reflected in what we do and how we do it. We do not just improve policies and services for children; we also improve relationships between adults and children. Active participation recognises the unique perspective that children can offer as individuals, and it also recognises them as fellow citizens now, not just citizens of the future.

I recently visited St Monans primary school in Fife to speak to the pupils and staff about our commitment to children's rights and to present them with a United Nations Children's Fund rights

respecting schools award. That is one example of children's rights in action.

The school uses the UNCRC to support a rights-based approach in all their interactions in the classroom and beyond. It has a contract, which was mutually agreed and is prominently displayed, with clear roles and responsibilities for everyone in the school to ensure that their behaviour allows everyone to enjoy their rights. Pupils, staff and other adults drew up together a plan of what children's rights are, what action pupils need to take to ensure that everyone can enjoy those rights, and how all staff, parents and carers can support the children to enjoy those rights.

The pupils recognise that if they disrupt the class, they are infringing on their fellow classmates' right to an education and that if they exclude a child from a game at break time, they are limiting their right to play. An understanding of everyone's rights instils recognition that to be part of a community requires responsible behaviour.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I totally agree with the cabinet secretary that we want to see our young people flourish and thrive. As well as that, young people must have an understanding of their rights and the opportunity to be heard. In her role within the Cabinet of speaking up for young people, will she raise with the justice department my concern that young people were not consulted on or involved at all in developing any of the proposals in the Sexual Offences (Scotland) Bill?

Fiona Hyslop: In recognising the rights of children on justice issues and in other areas, it is important that we consult young people. Children's impact assessments are something of which I am very supportive, and there are issues in relation to the Sexual Offences (Scotland) Bill that have led to representations from different groups that represent children. However, Cathie Craigie raises an issue that the Justice Committee is looking at carefully, and I will take a keen interest in that committee's response on the issue.

The creation of the office of Scottish Commissioner for Children and Young People was a major signal of the importance that Scotland places on the rights of children and young people. The present incumbent, Kathleen Marshall, has worked tirelessly to raise the profile of children's issues and to ensure that all our children—particularly the most vulnerable—are listened to and represented at every opportunity.

The consistent stance from both previous and current Administrations on children and families who seek asylum has seen real progress made on the United Kingdom Government's approach to asylum and immigration policy within Scotland's borders, especially in relation to children. Lead

professionals are in place to promote and support the welfare and rights of children who seek asylum, and officials continue to work with partners on the development of a Scottish alternative-to-detention pilot. We have been pushing for the pilot for many months, and we are hopeful that the first families will enter it early in the new year. It is right that we do whatever we can to keep children out of detention at Dungavel or elsewhere. The Government has also made a commitment to end the remand of under-16s in prison—another significant step towards improving the rights of Scotland's children.

The UN committee issued its concluding observations at the end of the latest reporting round on 3 October. Those are the committee's recommendations on where the state party falls short in compliance with the convention. Although the focus is largely on the UK as a whole, the majority of the recommendations are directly relevant to Scotland. Therefore, the Scottish Government will take positive action to respond to the important issues that have been raised, always bearing in mind the fact that our ultimate aim is to improve outcomes for children and young people.

George Foulkes (Lothians) (Lab): The minister has raised the issue of young people being held in custody at Dungavel, which Scottish National Party members are constantly going on about. The Cabinet Secretary for Justice said in February that no more Scottish children would be kept in Scottish prisons; yet, as Dr McLellan has pointed out, six more have been incarcerated since that announcement. Why is that continuing?

Fiona Hyslop: The provisions that the Cabinet Secretary for Justice announced are to be welcomed. They were part of our submission and were recognised by the UN committee. The unruly certificates for 14 and 15-year-olds that were issued under the previous Administration and the practice of incarcerating under-16s can and will be addressed by the SNP Government. Those proposals have been welcomed by those who are considering the issue.

We will work with different groups to identify what we can do. We must recognise the key challenges and move forward together as a Parliament to use the opportunities that we have in Scotland to face them. I hope that we gain the Parliament's support for doing so.

The UN highlights the fundamental need for all children to have an adequate standard of living and the risks to a child's development when they do not. Children in Scotland deserve the best possible start in life. Poverty is one of the issues that we must address in Scotland—we know that. It is morally unacceptable that more than 20 per cent of Scotland's children live in poverty. Our work on developing the anti-poverty framework, on

the early years framework, on health inequalities and on the curriculum for excellence has at its core a desire to see the generational cycles of poverty—financial poverty, social poverty, poverty of choice and poverty of aspiration—broken. Those interlocking policies also offer opportunities to improve outcomes for all, regardless of race, disability, gender or sexuality and regardless of whether a child is looked after within the family or by a local authority. Those areas are also of concern to the UN.

The UN committee mentions the right to play, and we are confident that the prominence that we are giving play in the early years framework and other innovative work such as the play and leisure opportunities that are available through cashback for communities will address those concerns.

In addition, in some important areas, the UN committee is critical about issues that can be philosophically complex for us, such as the age of criminal responsibility. We will reflect on its comments on those areas and consider carefully our response.

Murdo Fraser (Mid Scotland and Fife) (Con): Does the minister agree that, as a matter of principle, we should stress that decisions about policy matters that affect children should be taken by democratic institutions, such as this Parliament and other elected bodies, rather than by appointed officials and committees, no matter how worthy they might be?

Fiona Hyslop: I agree with that, and believe that one of the most important pieces of legislation in this area is the Children (Scotland) Act 1995. I look forward to this Parliament legislating in ways that will improve on the current legislation by, for example, improving the children's hearings system.

On the age of criminal responsibility, the fact that we have a welfare-based system of justice for young people must be reflected in any changes that we might bring about through democratic legislation.

We must reassure people that acknowledging that children have the same rights as all of us does not take power away from adults. Rather, it is about strengthening bonds between adults and children, re-establishing relationships based on respect and ultimately improving outcomes for the next generation.

In order to do that successfully, we must tackle some of the underlying negative perceptions of children and young people that persist. I am sure that all of us have been enthused and enlightened by certain projects or pieces of work that children have been involved in. Members will have seen the artwork that is in the lobby. It is disappointing that some of the representations of young people

that we see in the media are not as positive as that artwork.

Nelson Mandela said:

"There can be no keener revelation of a society's soul than the way it treats its children."

I am confident that, here in Scotland, and in this chamber today, we are aspiring to the best that those words imply. We are acknowledging the challenges, committing to address them and demanding the best for our children.

I am delighted to be able to use this time in the chamber to discuss constructively what we can do to support the rights of all Scotland's children.

I know that the cross-party group on children and young people had a particular focus on the UN convention in the past year, and that many members have contributed to ensuring that children's rights have been kept on the agenda in this chamber. I look forward to hearing more of those contributions and to taking this agenda forward.

The Deputy Presiding Officer: I call Karen Whitefield. You have nine minutes, Ms Whitefield.

George Foulkes: On a point of order, Presiding Officer. I hesitate to come in like this when my good friend, Karen Whitefield, is about to speak, but you have just said that she has nine minutes, and I have been told that I have six minutes. However, I have received a circular from something called the parliamentary business team, saying that decision time is being brought forward to 4.35 pm, which is 25 minutes before its usual slot.

Given that we normally go on until 5 o'clock, surely speakers in this very important debate should not be inhibited by a totally artificial deadline. There seems to be no reason for the decision whatsoever. As the proposal has not yet been agreed by Parliament, there is, as yet, no authority for us to stop at 4.35 pm. It is completely unreasonable to suggest artificial times. My good friend, Karen Whitefield, should be allowed to go on for as long as she wishes.

The Deputy Presiding Officer: I will not comment on the last point, but I will say that if decision time has to be changed from 5 o'clock, it will be done by a motion of the Parliament that will be voted on by the members who are present in the chamber at the time.

15:09

Karen Whitefield (Airdrie and Shotts) (Lab): I hope that my speech is as good as Mr Foulkes appears to think that it will be.

I am sure that we can all agree that the protection and enhancement of the rights of the

child should be at the heart of the work of this Parliament and, indeed, of every Government around the world. It is quite incredible how far we have progressed in the United Kingdom and Scotland over the past century. On issues such as the attitude to smacking, we have even moved quite far in the past 10 years.

The use of children as cheap labour in the United Kingdom is still within the lifetime experience of some. The foundation of the International Labour Organisation in 1919 and the passing of the Children and Young Persons Act in 1933 changed that in the UK, but we all know that child labour is alive and well in countries around the planet and that we have a part to play in that. The use of child labour is no longer acceptable in the vast majority of modern countries. The recent action taken by Primark, when it axed three long-standing suppliers in south India for using child labour, is proof that action in the west can help to address the problem. It is important that we recognise the international element of the UN Convention on the Rights of the Child. We have a part to play in combating child labour in other parts of the world. Importantly, we also have a part to play in promoting the right to an education, both through the provision of aid and through diplomatic pressure.

In my constituency, I have seen the efforts of Scotland's schoolchildren to raise those issues, both locally and in the Scottish Parliament. They realise how fortunate they are to be able to receive an education and they want children around the world to have the same rights. Our actions here in Scotland can play a part in making that a reality—politically through aid and individually by refusing to purchase goods that have been manufactured using child labour.

I will talk about several domestic issues that relate to the UN Convention on the Rights of the Child. As members know, the key principles of the convention are that all rights must be available to all children without discrimination; the best interests of the child must be primary; children's views must be considered; and all children have the right to life, survival and development. The remaining articles cover three broad categories: participation, provision and protection.

I note that the children's commissioner, Kathleen Marshall, has welcomed much of the UN committee's report. In particular, she welcomed moves by the UK Government to remove two reservations on the convention: the immigration-based reservation to article 22 and the reservation on children in custody with adults—an issue that Fiona Hyslop touched on. The issue has sparked widespread debate in the Scottish Parliament and at Westminster. I acknowledge the campaigning work done by MSPs throughout the chamber and I

welcome the decision made by the UK Government. I believe that it has done the right thing.

The UN committee notes that with our children's panels, we lead the way internationally. However, serious concerns have been raised about the age of criminal responsibility in Scotland, which is eight—compared with 10 in England and Wales. I am under no illusions that this is a sensitive issue that requires careful consideration, but given the comments in the UN committee's report, I believe that it is time to have a wide-ranging debate on the matter. I hope that the Scottish Government will show leadership by consulting on the issue.

A related concern that the UN committee raised is the imprisonment in adult prisons of those under 18. In particular, concerns were raised about the incarceration of children under 16 in adult provision. The cabinet secretary seemed to suggest that this Government has abolished unruly certificates; my understanding is that it is consulting on unruly certificates being abolished. I also suggest that the abolition of unruly certificates will in no way guarantee the ending of the imprisonment of children in adult prisons.

The Minister for Children and Early Years (Adam Ingram): To follow up on that point and the point that Lord Foulkes made in his intervention, there are currently no under-16s in prison in Scotland. As the cabinet secretary indicated, that is in line with her policy that no under-16s should be held in prisons or young offenders institutions.

Karen Whitefield: The report refers to 16 and 17-year-olds and the children's commissioner, Kathleen Marshall, commented on the issue. She said that prison is no place for under-18s and that it can only cause the individuals more harm than good. Indeed, Andrew McLellan, Her Majesty's chief inspector of prisons for Scotland, called for an end to the incarceration of children after an unprecedented increase in the number of inmates. The Government must address the matter. We can never have a child-centred approach if we incarcerate our children in prison. It is particularly ironic that children and young people under 18 are being incarcerated in adult prisons at a time when we have overcapacity in our secure estate. Perhaps the Minister for Children and Early Years could respond to that point when he sums up.

Fiona Hyslop: I appreciate the member's concerns, which the Government shares. Does she support the Government's proposal that 17 and 18-year-olds who have been in secure accommodation should remain there rather than being transferred—as they have been previously—to either young offenders institutions or adult prisons?

Karen Whitefield: Indeed. It is appropriate to keep a young person in secure accommodation—sometimes even beyond the age of 18, if they have six or seven months still to continue. That is preferable to sending them to an adult institution.

I move on to the UN committee's comments on the need to provide all children with adequate and accessible playground space. That is an important issue because, at a time when budgets are being tightened, provision can easily slip. I recognise that many local and national politicians welcomed the removal of ring fencing, but we must also recognise that the policy can have negative impacts on certain services and resources. If budgets for play facilities are not protected, it is almost inevitable that they will suffer as councils struggle to meet statutory requirements. Access to play facilities is particularly vital in areas that have high levels of coronary heart disease and diabetes, such as my constituency.

The report also raises concerns about the levels of child poverty in the United Kingdom. I accept that both the UK Government and the Scottish Government must give greater priority to the issue. I agree with the committee's recommendation that the Scottish Government must begin to collate public spending data in such a way that it can be used to monitor how much spending is allocated to the eradication of child poverty. Without that, we will never be able to prioritise spending on the issue. I also agree that ending child poverty must be a key aim of the Scottish Government's framework for tackling poverty.

The Deputy Presiding Officer: One minute.

Karen Whitefield: Those steps are necessary if we are to be reassured that measures to tackle child poverty are more than just words. We need those measures to be resourced.

I also agree with the Commissioner for Children and Young People in Scotland's view that a children's rights impact assessment should be carried out on all new legislation and policy. If we can do assessments to tackle climate change, surely we can do assessments to tackle child poverty.

Finally, I will say a few words on the committee's concern about discrimination against Gypsy and Traveller children. I cannot believe that it is acceptable for any child to be discriminated against in today's society. The Scottish Government should embark on a public campaign to tackle discrimination against the Gypsy Traveller community.

We all agree with the aims and aspirations of the UN Convention on the Rights of the Child. However, we need to ensure that those aspirations are turned into reality here in Scotland. I welcome the UK Government's recent decision to

remove the reservation in relation to asylum-seeking children.

The Deputy Presiding Officer: The member must conclude.

Karen Whitefield: I ask the Scottish Government to continue to act. I look forward to hearing the minister's response to the points that I have raised.

15:18

Elizabeth Smith (Mid Scotland and Fife) (Con): It goes without saying that it is the moral as well as the legislative obligation of any Parliament in the democratic world to ensure that we protect our children, both in relation to their inalienable human rights before the rule of law and as looked-after individuals who have not yet arrived at adult independence. No one who bases their politics on democratic ideals can fail to recognise the importance of that obligation or the principles that underpin the United Nations Convention on the Rights of the Child.

We should not underestimate the scale of the task of implementing the principles or the difficulty of dealing with situations where they are wilfully ignored or misunderstood. Who can argue about the plight of the many thousands of children who find themselves the innocent victims of social and economic injustices? That is why we will do everything that we can to support the Government in its aim to address those injustices, be that by improving support for looked-after children, young carers and disabled youngsters or by reforming children's panels.

As we agree today to do our best to protect our children—as I am sure we will—not just in the usual spirit of consensus but because we know that it is right, I firmly believe that it is our duty to maintain perspective. I agree entirely with the children's commissioner when she says that we need to set out where the priorities lie, given that some of the recommendations are much more fundamental than others.

Part of the debate is necessarily about the role of the state—whether it is acceptable to expect the state to legislate on all the issues cited in the report and whether there is either a political or moral obligation to adopt every recommendation. Therein lies the philosophical challenge, which means accepting the principles of the convention, but allowing states the freedom to interpret its articles in ways that do not undermine the judgments of sovereign or devolved Parliaments.

I go further: there is also the philosophical challenge of ensuring that, where possible, parents can get on with the job of being parents without fear of the nanny state or interventionism,

which are in direct conflict with personal liberty. There is a very fine line to be drawn in ensuring that the law is measured and protective but not intrusive and autocratic, especially in a country such as Scotland, where the relevant laws often cross international, European, Westminster and Holyrood boundaries.

Furthermore, let us not forget that along with the long list of rights comes just as long a list of responsibilities. We want to inculcate those responsibilities in our children as they grow up, but as adults we also have responsibilities to ensure that we protect the physical and mental status of childhood, which is a distinct phase of development in a young person's life that is not adolescence or adulthood. Too often these days, we are guilty of expecting the young, and sometimes very young children, to think and understand like adults, and in some cases to have views on some of the most complex and sensitive matters.

I do not know the answer to this, but while being a parent has never been easy, I suspect that there is some justification these days for believing that it has become increasingly difficult. For example, there is the modern obsession with rights and how they can be used to challenge almost every aspect of our social, political and economic lives. The more we legislate, the greater the danger of making bad and inappropriate legislation and of stifling human freedom.

The five-yearly audit report that we are required to submit to the United Nations Committee on the Rights of the Child is intended to be a check and a balance when it comes to how we protect our children. It is designed to ask searching questions, as it should, and to help us take stock of how far we have travelled and how far we still have to go to make improvements. While we on the Conservative benches accept most of the recommendations, we feel that the legal and libertarian implications of some should be the subject of more extensive debate. However, I welcome any report that makes us think carefully about what we do in this hugely complex area.

I will finish by addressing education and health policy. Perhaps the greatest gifts that we give children are health and education but, sadly, those are denied to far too many children throughout the world. The many submissions that I and other members received prior to the debate made it abundantly clear that effective policy making in education, health and economic development, rather than more and more legislation, is far more likely to deliver improvements for our vulnerable children.

15:23

Nicol Stephen (Aberdeen South) (LD): This is an important debate, and I apologise at the outset that I have to leave the chamber early due to a constituency and not—I assure members—a campaigning engagement.

Some of the statistics about child neglect and child poverty in Scotland are staggering and unacceptable, and are an indictment of our modern society. Professor Jonathan Bradshaw, who chaired last year's UNICEF report on child wellbeing in rich countries, rightly described the position in Britain as a "picture of neglect."

Equally, I am conscious that in debating this issue in Scotland in November 2008, everything is relative. Events this very day, in the Congo, Darfur, Iraq and Afghanistan, involving untold suffering of hundreds of thousands or millions of young children, remind us of that. Those are truly hellish and horrific places for children to be, and there are many others. In many parts of our modern world there is little respect for—or even little concept of—the rights of the child.

Across our planet, many children remain enslaved and abused, dying from gunfire and shrapnel, starvation and drought, and malaria and HIV/AIDS. On that note, how can a church—yes, a church here in Scotland—last week use such extreme language against our scientists who are fighting to cure terrible illnesses and to save lives, when that same church refuses to support simple precautions that could save the lives of thousands of children each year by reducing the awful spread of HIV/AIDS in Africa?

In Scotland, a lot has been done on children's rights and involvement. We have a Children's Parliament, a Scottish Youth Parliament, a new Commissioner for Children and Young People and a Scottish Commission for Human Rights. However, a massive amount still needs to be done to deliver real change for the next generation of young people in Scotland. If rights are to be meaningful, they must deliver a real change in culture and in our attitude to young people. In Scotland, 1 million young people under the age of 18 are just waiting to be energised, involved and inspired. Instead, too often they are demonised, degraded and denied.

This week, we have seen that there is another way. The great success of Barack Obama is not only about removing the barriers of race; it is also about inspiring a new generation of young people. He has said:

"One of the hallmarks of this campaign has been the extraordinary involvement, at every level, of young people and college age voters in every single state.

I think young people are eager and ready to serve, we just have not asked enough of this generation."

The amazing and unprecedented events of Tuesday proved his point. If that torch of hope, now lit in America, could be passed to a new generation of young people here in Scotland, our politics and our nation would be so much the better.

Instead, the other parties have ratcheted up the rhetoric of negativity. From Labour, we hear that antisocial behaviour orders are no longer enough—we need baby ASBOs against 10-year-olds. From the SNP, we hear about plans to ban the sale of alcohol to those aged 18 to 21. Our media and political leaders talk our young people down. Young people are portrayed as the problem. We incarcerate them if they are asylum seekers, send them to adult prisons and take their DNA. Those are not the foundations of faith and confidence that are needed for the spirit and success of our children.

Children need rights, but they also need opportunities. Opportunities are not more important than rights, but they are as important. In Scotland, those opportunities start to be removed at birth—many would argue, before birth. Poverty afflicts 250,000 of our children; severe poverty affects 90,000 children. Last August, the Scottish Government produced a 179-page document setting out its approach to the UN Convention on the Rights of the Child. Shockingly, its strategy on tackling child poverty did not merit a mention. In some constituencies in Scotland, despite current relatively low levels of unemployment, the proportion of schoolchildren who come from workless families living on benefits is more than 40 per cent.

To break the downward spiral, support in the early years is vital. We need to move to a much more Scandinavian style of education and care that is focused on learning through play and encouragement. We need to give children opportunities to learn in new schools with excellent sports, music and drama facilities. Some of our new schools are outstanding, but too many have been built to fit a budget. I would rather see seven world-class, well-designed new schools with outstanding facilities than 10 mediocre new buildings with poor community access that repeat too many of the mistakes of the 1960s and 1970s.

Our treatment of looked-after children remains appalling. Each year, 4 per cent of pupils leave school with no qualifications. Among looked-after children, the figure is 30 per cent. We are failing a generation.

In conclusion, we must have rights, but more than rights we must have action. We need an action plan from the Scottish and UK Governments to tackle the issues that are highlighted in the UN committee's concluding observations, including tackling child poverty,

better protection for the children of asylum seekers and ending discrimination against Gypsy Traveller children. We must incorporate the UN Convention on the Rights of the Child into Scots law. We must increase the opportunities for young people in Scotland, involving them in decision making at all levels in meaningful ways.

Most important of all, we must be positive about children and young people. I was pleased to hear the minister speak about fun and happiness, which are really important for children. We must encourage, educate and inspire them. We must raise the sights of young people and raise their confidence and self-esteem. Through policy and action on poverty, education and health, we must raze from our memory the damning aspects of the recent report by transforming Scotland's future.

15:30

Christina McKelvie (Central Scotland) (SNP): Presiding Officer, I would not presume to lecture you or the Parliament on the importance of the basic rights of the child. I am well aware of the long legacy of many members in campaigning for basic human rights and in standing up for those who are less able to speak out. Those efforts, which have been allied to the efforts of other people in Scotland, reflect well on our nation.

I admit that I was pleased but surprised when the UK Government announced its intention to sign up to the UN Convention on the Rights of the Child—albeit 17 years after ratification. For 17 years, the UK retained an opt-out on the convention, allowing child migrants and asylum seekers to be locked up without judicial scrutiny. I could not put it better than Shami Chakrabarti, who said:

"We weep hot tears for kids suffering all over the world but if they have the audacity to seek asylum here they can look forward to degradation and detention."

I rejoiced when I heard that the UK Government was to sign up to the convention, and I am sure that many people here did, too. I thought that we were seeing justice at last, and I thought that the UK governmental machine was at last approaching decency. I thought that the rights of the child were finally being brought home.

The Government in London has indeed signed up to the convention, but there has been no indication that it has any intention of incorporating the convention into law. Much as I would love to stand here today and admit that the campaign has been successful, I cannot. With regret, I inform members that we still have a job to do. If we feel the need, we can point to schedule 5 to the Scotland Act 1998 and note that Westminster obliges us to observe and implement international obligations, even when Westminster ignores them.

I think that we are better than that, that this Parliament is better than that, that Scotland is better than that and that the Scottish branches of the UK parties are better than that.

I am extremely proud to be a back-bench member of the Scottish National Party Government, which has put children at the heart of its plans for Scotland's future. However, let us not take my word for it, let us consider the words of Barnardo's Scotland, in its briefing for today's debate:

"Barnardo's Scotland recognises that there have been several positive developments in Scotland in the field of children's rights. These include:

Scottish Government has taken a positive stance in the treatment of children of Asylum seekers through access to nursery and tertiary education

Scottish Government has established a Children's Rights Unit within the Education and Lifelong Learning Directorate. This was positively commented in the Concluding Observations

The Scottish Government Children's Rights Unit has established a Partnership Group consisting of a range of groups relevant to the children's rights field

The Cross Party Group on Children and the Cross Party Group on Human Rights",

which is convened by my colleague Jamie Hepburn,

"will jointly host an evening reception in the Scottish Parliament to celebrate the International Day of Children's Rights on 20th November."

That can be added to the Scottish Government's framework for tackling poverty, inequality and deprivation, its early years strategy, the extension of eligibility to free school meals, the commitment to free school meals for all pupils in primaries 1 to 3, reduced class sizes, the curriculum for excellence and, most important, the continued pressure on the UK Government to end the detention of children in Dungavel. Those commitments, along with others that Fiona Hyslop detailed, are welcome.

I wish to add a new burden to the Scottish ministers' load, but it is a burden that I know our cabinet secretaries and ministers will be pleased to take on. I want the provisions of the UN Convention on the Rights of the Child to be incorporated into Scots domestic law. I would be delighted if the UK Government and the London Parliament were making that happen in other areas, too, but I want our Government and our Parliament to deliver that for children in Scotland. We could introduce a children's rights bill or incorporate provisions into other legislation, perhaps by amending the Children (Scotland) Act 1995 or using some other method—the means is not important.

The Scottish Government has not sought to make landmark legislation to prove a point; it has legislated in the interests of the country and has done so only when necessary. What is important for us is the result of our legislation. What comes out at the end is far more important than the poses that we strike while legislating. Ensuring that the law is right for the country and that it is functional is more important than making headlines along the way.

This Parliament has the opportunity once again to be at the forefront of improvements in rights and provision. I hope that we can take it.

15:35

Marlyn Glen (North East Scotland) (Lab): I welcome the opportunity to take part in this important debate on the concluding observations report of the UNCRC monitoring committee.

I join Barnardo's and other children's organisations in welcoming the positive developments in Scotland in the field of children's rights. Members are right to emphasise the achievements to date.

When we consider the lives of children in war-torn parts of the world, Scotland's children might seem protected and cared for. There are reports in today's newspapers about the effects of war on children in Afghanistan, Palestine and the Democratic Republic of Congo, which UNICEF has described as

"the worst place in the world to be a child"—

a massive contrast to the situation for children growing up here in modern Scotland.

However, despite the good progress that is being made, there is still a huge amount of work to do. I endorse the Scottish Alliance for Children's Rights' list of priorities on compliance issues, which the Government in Scotland and members of the Parliament can take forward. The list includes: producing an action plan; increasing awareness of the UNCRC through education; promoting a positive image of and culture towards children and young people; increasing meaningful participation; and incorporating the UNCRC into Scottish law. That seems like a lengthy and demanding shopping list, but in Scotland and the UK we are making progress, which no doubt is helped by the work of Scotland's children's rights commissioner, Kathleen Marshall. I join others in applauding the work that she and her team do on behalf of Scotland's children.

We should be celebrating our young people. It is time, at last, to join in the rallying cry that children are unbeatable. I ask the minister to answer the call to update Scots law in line with article 37 of the convention. To implement the UNCRC fully, it

is necessary to reduce and, indeed, prohibit the physical punishment of children. As Karen Whitefield said, there is, thankfully, an increasing change in attitude to smacking in Scotland, with parents looking for more support and information on positive, non-violent parenting approaches. Research now shows a marked reduction in the number of parents using physical punishment on their children. There is a growing realisation that smacking is ineffective as a form of discipline. As well as legislation, we need a new public health information campaign to promote non-violent parenting. That needs to be included in the early years strategy, and I trust that the minister will address that in his summing up.

There is another important set of recommendations on the family environment. In Scotland, the new emphasis on the effect of domestic violence on the children of victims is welcome. We are beginning to recognise and address the effect on children of their living in a violent or abusive household, but to address it fully we need to continue to challenge the whole spectrum of men's violence against women. That work has to be kept at the very top of the agenda, because many questions are still to be answered.

To counter the violence in our society, do we need new legislation specifically on domestic abuse, which could be included in the forthcoming criminal justice bill? It always surprises and frustrates me that only the ministers who are directly responsible—in this case, it is the ministers who are responsible for children—attend debates such as this. This debate is partly about justice, so I hope that all the justice spokespeople, as well as the justice ministers, take note of it.

The recommendations underline the need for education about the UNCRC, to increase awareness of children's rights. Training is particularly important to disabled children and their families, because they have more problems in accessing and securing education and are more likely to live in poverty. When we consider the lives of some of our children with visual, hearing or learning difficulties, we know how much work has still to be done to improve the situation of all children in Scotland. Parents and professionals need to understand children's rights to make such improvements.

Much work that has been done in the Parliament could help to improve our progress. For example, the report by the Equal Opportunities Committee in the previous session entitled "Removing Barriers and Creating Opportunities" highlighted problems of access to education and leisure services for people with disabilities. Many of the committee's findings hold for children with disabilities as well as for adults. In the Parliament's first session, the Equal Opportunities

Committee's report on Gypsy Travellers made recommendations on what should be done to help Gypsy Traveller communities. Those reports are excellent, but they are useful only if their recommendations are acted on. I invite the minister to reconsider the recommendations and perhaps to feed them into an action plan to help to address the concluding observations by the UN Committee on the Rights of the Child.

15:41

Jamie Hepburn (Central Scotland) (SNP): An 18th birthday is often described as a coming of age, so it is appropriate that we hold this debate in the 18th anniversary year of the UN Convention on the Rights of the Child, which was designed to protect the rights of all those who are under 18 and which deserves truly to come of age itself. As members might know, I have a strong interest in the role that the Parliament can play in promoting respect for human rights in Scotland and around the world. That is why I am proud to convene the Parliament's cross-party group on human rights and civil liberties.

The Convention on the Rights of the Child is not the only human rights declaration to celebrate an important anniversary this year. The overarching global framework—the Universal Declaration of Human Rights—celebrates its 60th anniversary, which makes it somewhat older than the Convention on the Rights of the Child, but no less important. I hope that the Parliament will have the opportunity to discuss the significance of the declaration in the not-too-distant future, just as we are discussing the convention today.

From the universal declaration spring all other UN conventions on different aspects of human rights. It is the foundation stone on which the human rights that belong to groups in our society rest and are built. One such example is the UN Convention on the Rights of Persons with Disabilities. Members will know that several motions were lodged recently to raise serious concerns about the UK Government's decision to make reservations on key aspects of that convention.

I mention that because the UK Government chose for many years to make reservations on aspects of the Convention on the Rights of the Child—particularly on aspects that related to child migrants and asylum seekers. A practical effect of one reservation, which was in effect an opt-out from article 22, was the detention of children in institutions such as Dungavel. I understand that the UK Government is likely to withdraw its reservation of that article, which is very much to be welcomed.

The detention of children of asylum seekers in Dungavel and similar institutions is nothing short of an outrage. The sooner it ends, the better. If we truly believe that children have the rights that are enshrined in the convention and in the Universal Declaration of Human Rights, such as the rights to protection against discrimination, to live with their parents in the same place, to health care, to education and to a decent standard of living, none of them can be realised by a child living under lock and key in Dungavel. I commend the work of my colleagues and campaigners to ensure that progress has been made on that.

Members will not be surprised to learn that I believe that the best way to prevent Scotland from being affected by UK Government reservations to such conventions is for it to become an independent party to conventions. If Scotland could sign up in its own right to the UN Convention on the Rights of the Child, we would be in a much better position to implement it fully and effectively in Scotland.

However, that is not to say that we can do nothing in a devolved context. I accept that we can act on matters that have been mentioned, such as the imprisonment of young people in adult prisons and the corporal punishment of children in the home. One issue that has not been mentioned is the age of criminal responsibility, which is very low here by international standards.

Those are areas that we can, and perhaps should, act on. It remains a fact that Scotland is not an independent party to the convention. The UK Government may have ratified the convention, but it has some way to go before it lives up to the standards that it should reach as a Government.

Early last month, the UN Committee on the Rights of the Child published what was in effect a report card on the UK's implementation of the convention. The publication makes for concerning reading in a number of areas including the treatment of children of asylum-seeking families and child poverty. By definition, any child living in poverty is denied the rights that are outlined in the convention. A child who lives in poverty cannot be said to be exercising their right to an adequate standard of living. As we are all too well aware, with poverty comes a poorer standard of health and education, two other rights that are integral to the convention.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): Does the member welcome, as I do, the interim target and the setting in law of a target on the elimination of child poverty that the UK Government is adopting?

Jamie Hepburn: Indeed, I welcome that. However, as the UN Committee on the Rights of the Child indicates in its report, there is still a long

way to go before those targets are reached. As Nicol Stephen said, a quarter of a million of Scotland's children live in poverty, 90,000 of whom live in severe poverty. It is therefore no wonder that the UN Committee on the Rights of the Child noted that child poverty is a very serious problem. What it said is a serious understatement: in the context of the debate, child poverty is an abuse of the human rights of those who suffer it.

If Scotland were to be an independent party to the convention, we could discuss the issue of incorporating the convention into Scots law with considerably more confidence than we can at present. The idea has merit; indeed, my party approved a motion on the subject at its recent conference. I commend Christina McKelvie for bringing the debate to conference.

I will watch the debate unfold with interest. The easiest way in which to get around the complications of devolved and reserved matters is to get rid of the distinction and return to the Scottish Parliament the normal powers of an independent country.

This week has been about political change not only in America but Glenrothes where, I am sure, we will see that demonstrated this evening. Surely we can all agree that we must change the way in which children at home and across the globe are treated. The Scottish Parliament can help to bring about such change. The Convention on the Rights of the Child helps us to see exactly how that should be done.

The Deputy Presiding Officer (Trish Godman): I call George Foulkes to be followed by Rob Gibson.

15:47

George Foulkes (Lothians) (Lab): I am pleasantly surprised to see so many young, able and fit people here today. I thought that members had to be the age of Ian McKee or me to get a chitty exempting them from physical exercise on the other side of the Forth today.

I accept that Christina McKelvie, whom I enjoy listening to, is entitled to her view on any subject, but I also think that the Scottish Parliament should accept responsibility for the areas that have been devolved to it and for which it has responsibility. There are still Scottish representatives at Westminster, including SNP representatives. No doubt Christina McKelvie is hoping that there may be one more SNP representative by tomorrow; I am hoping that there will not be.

The UK Government has accepted responsibility for this area. It has also accepted that it is unacceptable to lock up children of asylum seekers and is looking for ways to deal with that.

Equally, in February, Kenny MacAskill, our Cabinet Secretary for Justice, said that we would stop locking up children in Scottish prisons, yet on 28 July, six children were locked up in Scottish prisons. That is unacceptable. It would be better for members to spend our time in the chamber challenging Kenny MacAskill on the areas for which we have responsibility and asking the Scottish Government what it is doing. Adam Ingram said that no children are currently in a Scottish prison. However, if something were to happen over the next few days, there is no guarantee that a sheriff, for example, could not put a child into prison.

Fiona Hyslop: The member raises an important issue, which the Government moved swiftly to address. We can do two things to tackle it, the first of which is to abolish unruly certificates for 14 and 15-year-olds, which we are currently consulting on. Secondly, we can ensure that those who are under 16 and on remand are not placed in prisons. That also involves the relationship with local government and ensuring that it meets its responsibilities. On Marlyn Glen's point, as part of this debate, I have had discussions with the Cabinet Secretary for Justice in which he outlined his proposals in this area. He has undertaken far more activity on the issue than the previous Government did when it was in power.

George Foulkes: That was a rather long intervention. The Cabinet Secretary for Justice made his statement in February, but there were still kids in prison in July, and there is no guarantee that there will not be kids in prison tomorrow. That is not swift action. We would support any legislation that was necessary. Further action is required.

When I asked Kenny MacAskill about the children of women prisoners, he replied:

"The Scottish Prison Service does not collect data on female prisoners' children and does not intend to do so."—*[Official Report, Written Answers, 5 June 2008; S3W-13663.]*

Why not? It is vital for the welfare of those children that we know about them and do something about the issue.

There are other rights. I will read out a quote; Christina McKelvie will no doubt know where it comes from.

"We will increase the provision of free nursery education for 3 and 4 year olds by 50 per cent, with families benefiting from longer hours of free provision."

Where does it come from? The SNP manifesto. That was a promise, but has any of it become reality? The situation is quite the reverse. In my area of Edinburgh, nursery classes have been cut by 50 per cent. The SNP is reneging on promises and letting down and abandoning children whose

right to nursery education is not being respected in this great capital city of Edinburgh.

The Government recently announced that free meals would be provided for pupils in primary 1 to 3. How can free meals be provided in Edinburgh when the SNP and Liberal Democrat-controlled council—let us give the Liberal Democrats some blame as well—is closing kitchens? Presiding Officer, you know better than anyone that you cannot provide free meals in schools if you are closing kitchens. I went to a school in Pilton where the kitchen is being closed.

Another children's right is the right to decent schools, but Portobello high school, Boroughmuir high school and James Gillespie's high school have been waiting for nearly two years to find out when their buildings will be replaced. Under a Labour Government, the work to replace them would already have been under way.

The Cabinet Secretary for Education and Lifelong Learning promised that primary class sizes would be reduced to 18 in primary 1, 2 and 3, but in Edinburgh only 13 per cent of classes in those years have fewer than 20—never mind 18—children, and there is no prospect of any improvement. SNP ministers give us their promises in Parliament. They do not even blush when they say that they will provide smaller class sizes, but the reality on the ground in the primary schools in Edinburgh is that primary classes are getting bigger rather than smaller.

I was greatly impressed by the speech of Nicol Stephen—I am sorry that he had to leave—and what he said about children in the third world. I took an interest in that subject when I was a minister at the Department for International Development. However, in their opposition to genetically modified foods and all the work that is being done on that, the Liberal Democrats have an extremely strange view. If we accepted and adopted GM foods, it would be much easier for us to feed the children of the world. Sometimes, the people who oppose developments such as GM food are totally self-indulgent.

Robert Brown (Glasgow) (LD): Although there are issues to do with the sort of food supply that we have, does George Foulkes not accept that the biggest problems when it comes to feeding the world's children are the unsettled conditions and the horrible Governments in power in many countries of the world? Zimbabwe, for example, was capable of feeding a large part of Africa but can no longer do so. That is nothing to do with GM crops; it is to do with the nature of that country's Government.

George Foulkes: In all honesty, I accept that that is the case. Where there is conflict, it is extremely difficult to ensure that people have food,

as is evident in a number of African countries, especially, sadly, the Democratic Republic of Congo.

The Presiding Officer is looking at me, but I have dozens of issues that I could raise—I could go on until 5 o'clock on my own. I am outraged that when many members have lots of things to say, the business managers, who seem to run the Parliament without any concern for back benchers, propose to artificially curtail this important debate. The Presiding Officer is giving me the look that I know well from our many years of friendship.

I finish with something of which I am very proud. Thanks to a European convention on human rights directive, the smacking of children in schools—the legalised torture of children in schools with a piece of leather—was outlawed in this country. It is outrageous that this country was sullied for so long by teachers legally thrashing children on the hand as a punishment. I am happy to say that, when I was chair of education in Lothian, we got rid of the practice before anyone else, and before the European convention told us to do so. We in Scotland should not wait for UN or European conventions; we should do things on our own initiative because we believe that they are the right things to do.

15:56

Rob Gibson (Highlands and Islands) (SNP): Scotland's Commissioner for Children and Young People, Kathleen Marshall, has served us well by giving us the opportunity to conclude that the way in which we apply the suggestions and necessities under the UNCRC requires to be prioritised. Those necessities are fundamental, but some are more fundamental than others and, as Elizabeth Smith said, it is important to think about which are the most important. We as a Parliament believe that many of them can be applied by Government and do not need to be left to individuals to carry out.

Robert Brown: Will the member sign up to the idea of an action plan to be carried forward by the Scottish Government, which various organisations and several members this afternoon have called for?

Rob Gibson: The best way to deal with the issue would be for an appropriate committee of the Parliament to consider the matter and to put a report before Parliament. If that report took the form of an action plan, it might meet all our interests.

Thanks to the incorporation of a children's rights unit in the lifelong learning directorate, progress in Scotland has been positive. However, the children's commissioner has said that we should not be complacent, because—even now, in 2008—many children in Scotland still live in

poverty, experience difficulties in accessing essential health services and face a range of other barriers to securing their rights.

The impulse to try to improve children's conditions is centuries old. Karen Whitefield gave the example of the Children and Young Persons Act 1933. The impulse not to return to the poverty and misery of those years was a driver behind a family of UN declarations. With decolonisation came an important impetus to improve the situation throughout the world. However, we forget at our peril that there are still 250,000 children living in poverty in this country, 90,000 of whom are in dire poverty.

We must recognise that Scots have been at the forefront of the debate. Indeed, I shall quote a short poem by Sorley MacLean from the period around 1940, which has been translated into Scots by Douglas Young so that more people can understand it. Sorley MacLean said:

"My een are nae on Calvary
or the Bethlehem they praise,
but on shitten back-lands in Glesca toun
whaur growan life decays,
and a stairheid room in an Embro land,
a chalmer o' puirith and skaith,
whaur monie a shilpit bairnikie
gaes smoorit doun til daith."

The issue of growing life decaying is at the heart of the debate, and it is why the processes of children's rights throughout the globe have to be seriously addressed. If we are to have an action plan, and if we are to decide on priorities, what could come from the debate is the opportunity for the Parliament, in this four-year session, not only to try to deal with the actions that the Government has already taken but to guide some of its actions, for example by raising awareness of the declaration or by ensuring respect for the views of children.

I am a former teacher, and I do not think that our school system is fully geared up yet. There is a kind of dictatorship in which headteachers decide what happens, and the experience of how children's views are taken into account is mixed. Through the cabinet secretary's department, we could take measures to allow those views to be heard.

I was delighted to hear the examples from St Monans that the minister gave. Every school in the country should be adopting such principles. The boundaries of what people can do and what they cannot do have to be discussed.

George Foulkes said that the abolition of physical punishment in schools was important. I was part of the action group that helped to bring about abolition. However, the physical punishment was replaced by sarcasm—by talking children

down. In Scotland, that is one of the means whereby far too many children are disadvantaged.

We have to end bullying and violence, as ChildLine suggests—through, for example, the teaching of human rights and peace and tolerance. However, we have to allow children to express their views in their own languages and dialects. If children speak Scots, we should encourage that, because it will build their self-esteem. Such rights for children should be given greater importance. Amnesty International has suggested that the curriculum for excellence is a good place in which to enshrine both the UN Convention on the Rights of the Child and the Universal Declaration of Human Rights. They should be part of the teaching in every school.

When I was a modern studies teacher, I was happy to try to deal with some of these issues in relation to Africa. South African democracy was developing at the time when I was teaching.

Lord Foulkes made a point that we should stamp on immediately. I wonder whether he has mentioned Monsanto in the register of members' interests. The latest argument among the multinational seed and pesticide makers is that genetically modified seeds can feed the world. If free seeds were given out, if we ensured that there was transport, and if we ensured that the monopolies of these companies did not send Indian farmers to their deaths through suicide because their crops had failed, we could do much more for families and children in many parts of the world. I suggest that Lord Foulkes withdraw his ridiculous remarks.

The most important things that children can learn about their rights can be learned at school. Children can learn to respect the rights of others, and that will happen as their understanding grows.

Of course,

"Aa thae roses an geans will turn tae blume",

as Hamish Henderson wrote in "The Freedom Come Aa Ye". However, he also wrote:

"And a black boy frae yont Nyanga
Dings the fell gallows o' the burghers doon"

That means that it is about people in every country having opportunities. While we pursue wars in Iraq, Afghanistan and the like, we are denying many children the opportunity to ding doon the fell gallows. The debate reminds us that there is so much further to go both in our own country and abroad.

16:03

Mary Mulligan (Linlithgow) (Lab): I am pleased to be taking part in this debate, and I suspect that there will be much agreement.

Actually, I wrote that sentence before listening to the debate. I now suspect that there will be only some agreement. However, the debate is worth having. It is important for policy makers and legislators to reassure people in Scotland that we are committed to promoting and supporting the rights of the child.

The convention sets out the rights of the child in 54 articles and two optional protocols. It spells out the basic human rights that children everywhere should have. The four core principles are non-discrimination; devotion to the best interests of the child; the right to life, survival and development; and respect for the views of the child. I want to focus on a number of issues, but I will start with that last core principle—respect for the views of the child—which other members have referred to.

In the briefing from Scotland's Commissioner for Children and Young People, we are urged to build on some of the good practice that is already evident in Scotland with regard to listening to children and young people and taking their views into account when making decisions about their lives. The commissioner has been at the forefront of much of that good practice, but the Parliament has also made strong efforts to involve children and young people in its decision making. We know that a consultation needs to be sensitive to the children and young people who are involved, and to ask for their views in a way that is relevant to their lives and experience. We must take care to ensure that it is not viewed as tokenism, but that we listen carefully and act on the views that are expressed.

Children 1st suggested that one way of ensuring that the consultation is correct is through independent advocacy services—that is worthy of further examination. The Parliament has already recognised the benefits of independent advocacy by including it in the Additional Support for Learning (Scotland) Act 2004. Perhaps the minister can, in his closing statement, outline how the Scottish Government intends to build on the good practice that has already been taking place.

Another overarching issue concerns child poverty. The detrimental effects on a child's physical, mental and social development of living in poverty have been shown on numerous occasions, and although a commitment to end child poverty by 2020 is welcome, it is clear that that will be realised only if Government policies focus on that target.

Save the Children's briefing for this debate states:

"The Scottish Government does not currently collate public spending data in a way that can be used to monitor how much spending is allocated towards eradicating child poverty."

At a time when committees in the Parliament are busy considering budgets, perhaps the minister will tell us how the Scottish Government will make spending more transparent and—crucially—how it intends to target spending to help families, and the children in them, out of poverty.

I turn now to a number of issues that highlight where improvements are needed to provide a better life for our children and young people, which the Cabinet Secretary for Education and Lifelong Learning spoke about. Barnardo's suggests that we should guarantee the right of a child to engage in play. It is clear that people today are very concerned about safety, which has led to parents and carers being more protective, resulting in the unfortunate and unintended consequence of a lack of freedom for children. There is a problem with children developing an ability to assess risk and to make judgments, which is necessary for their personal development.

We have previously discussed that in the Parliament—I know that Elizabeth Smith initiated a debate on outdoor education and the risks that we allow children to take in those circumstances. I think, however, that we need to return to the issue and consider how we instil in parents and carers the confidence that allows them to let go.

I also want to highlight the particular needs of children and young people with disabilities in relation to play and recreation. I congratulate Playback and the children's commissioner in particular for the work that they have done to highlight the issue. I know that the minister is aware of the "What about us?" report, as he was present at its launch, and I ask him to update us on the actions that the Government is taking to address that.

In Scotland, we are proud of the children's hearings system that focuses on the individual child or young person, but we need to ask how that sits with our very low age of criminal responsibility. I agree with my colleague Karen Whitefield that it is now time for us to think about consulting further on that.

The Parliament has frequently debated looked-after children. One particularly concerning part of their lives was highlighted in the report from Scotland's Commissioner for Children and Young People, "Sweet 16? The Age of Leaving Care in Scotland". The report highlighted cases in which children were being looked after and, for a number of reasons, had to move out of their care homes and become independent. The issue was discussed in Karen Whitefield's members' business debate last year and the main concern was that young people should leave home when they are appropriately mature, rather than when they reach a particular birthday. Adam Ingram replied to that debate and he understood all the

points that members made, but I ask him what the Government is doing to address the issue.

In conclusion, everyone in the Parliament could say that we are in favour of supporting the UN Convention on the Rights of the Child, but it is our actions that will show whether we are serious. All of us as MSPs have an obligation to do what we can, but the Scottish Government needs to provide a lead and not sidestep its responsibilities. I hope that the minister will answer my points, but let me end on a note of agreement with the many members who have said that we need action. I hope that the minister will tell us that a plan of action will soon be forthcoming.

George Foulkes: On a point of order, Presiding Officer. I want to be helpful. I intend to speak against the business motion if it is moved at 4.35, because I think that that would be outrageous. It would be better if you could get a message to the Minister for Parliamentary Business that it would be sensible not to move the motion and instead allow the four members replying for the parties a decent time to answer properly what has been a very good debate.

The Deputy Presiding Officer: I look forward to your objecting to the motion, Mr Foulkes. I will give the members who are closing the debate the same degree of leniency that I gave you.

16:11

Robert Brown (Glasgow) (LD): I have some sympathy with George Foulkes, because this has been an excellent debate. As with the best debates, it has moved from the minister's scene setting to our identifying and focusing on particular themes as we have moved on.

There have been several very good speeches, but the top one, as has been commented on, was undoubtedly that by my colleague Nicol Stephen. He put the issues in context, referring to the situation both at home and abroad, and—in case there was any complacency—he showed us just how much there is yet to be done.

It has been a worthwhile debate. At one level, it can seem esoteric and bureaucratic, but in reality it is concerned with ensuring the establishment of the highest standards, not just for sustaining the rights of our young people—as Elizabeth Smith mentioned—but ensuring that they all get the best possible start in life. The UN Convention on the Rights of the Child is far from academic to every family in Scotland and to Scotland as a whole.

I begin with children's rights. When Cathie Craigie intervened at the beginning of the debate she pointed out that the Justice Committee has identified that, whatever else happened before the Sexual Offences (Scotland) Bill was introduced,

there was no consultation of children and young people to identify their views on issues related to, for example, sexual relations between children at various ages. Such a consultation would have informed the deliberations of the Justice Committee and Parliament as a whole on the complicated questions—including sexual health, age of majority and age of consent—that lie at the heart of the bill and that are giving the Justice Committee some significant issues. We must start by committing the Parliament and the Government to observing the rights of the child in practice when dealing with legislation and other policy issues. That must be our starting point.

In the past few years, to the credit of this and previous Governments, we have seen major improvements in the development and enforcement of the rights of and opportunities for children in Scotland. The report from the Scottish Executive on the UN convention highlights the achievements of the previous Government in its adoption of policies and programmes that support and promote, among other things, child development, care, justice and additional support for learning. That work has been built on by the current Government.

In fairness, the issue goes back further, to the previous Conservative Government and its landmark Children (Scotland) Act 1995, with its emphasis on the best interests of the child and the child's voice being heard. That act is still a powerful influence on how the issues are dealt with by the Government, courts and practitioners.

Several themes have emerged, and I will deal first with the question of age. What is a child? UNICEF, referring to article 1 of the convention, defines a child

“as a person below the age of 18, unless the laws of a particular country set the legal age for adulthood younger.”

In those circumstances, states are encouraged

“to review the age of majority ... and to increase the level of protection for all children under 18.”

We could have a theoretical argument about what the age of a child is in Scotland, considering our emphasis on being forisfamiliarated at 16, with rights that begin at that age, and the rights involving buying particular products, school education and other matters that arrive at the different ages of 16, 17, 18 and sometimes even older. The reality is that that difficult age group between 16 and 18 faces a number of challenges. I have already talked about the Sexual Offences (Scotland) Bill and the challenges in that. There are also challenges with rights to education and how they play out for those in that age group. I do not want to get too technical, but it will be generally accepted that the proper vindication of a young person's right to an education takes us up

to the age of 18. I am not talking about the compulsory school age, but about the right to have proper access to effective and relevant education.

Mary Mulligan talked about care leavers, and she was right to say that the fact that the age of leaving care is sort of 16—although things can continue to happen until the person is 18 and beyond—can be a deterrent to getting the system to work properly and effectively, as the children's commissioner identified. We all want systems to have regard to what is right and proper and to work in the best interests of young people who are in care—the most vulnerable young people in Scotland.

The debate touched on the detention of children. It should be our objective to end the detention of children under the age of 18 for any reason other than their own welfare and the safety of the public. That is an important aspect of the debate about Dungavel, children on remand, and how children are dealt with in such situations.

Reference has also been made to play and communication. The convention deals with those points specifically and I have always regarded them as very important. The cabinet secretary commented on that earlier when she talked about the long-awaited early years strategy and its proposed emphasis on play and, I hope, on the enhancement of play opportunities. I hope that the early years strategy will give substance to the promotion of opportunities for play and its links with communication. The quality of the strategy in this key area will be the issue.

We have talked about child poverty and the differences between the Scottish Government and the Government in Westminster. It is very clear that both Governments need to stretch every sinew, whether through partnerships or in other ways, to ensure that the objective of eradicating severe child poverty by 2020 is successful.

All this boils down to the action plan that a number of speakers and a number of bodies have called for. It is all very well to say nice words, as the cabinet secretary did, and have nice aspirations, but I was not entirely clear about what she was saying about the UN Convention on the Rights of the Child. She talked about it being a driver for children's rights, and the gold standard, but I do not know what she meant by that. Did she mean that she supports, as the SNP conference did, the idea of incorporating the convention into Scots law? *[Interruption.]*

The Deputy Presiding Officer: Excuse me Mr Brown. Could the members conducting a conversation behind Mr Brown please take it outside the chamber?

Robert Brown: Was the cabinet secretary talking about an action plan? Did she mean that

she is committed to what the convention says about things like smacking, which is an important debate, or the age of majority? Did she mean that she is committing herself to the implementation of the specific recommendations in the report? It is important that members know where the cabinet secretary stands on such matters. An action plan is quite important, and I hope that we get some confirmation of the key points around those matters, what the Government will be doing, and how it will bring about a greater degree of support for the convention.

My final point is about a children's rights impact assessment, something that the Liberal Democrats have long supported. In July, in reply to a parliamentary question, Adam Ingram said that the Government was

"currently looking into the possibility of using a children's rights impact assessment tool to help inform the development of policy and legislation."—*[Official Report, Written Answers, 31 July 2008; S3W-14968.]*

Where does that matter stand?

This is an important debate and a huge number of great points have been made. There is a lot of material for the Government to consider. I am grateful to have had the opportunity to participate.

16:19

Murdo Fraser (Mid Scotland and Fife) (Con): Cynical members of the Parliament—I know that there are one or two such creatures—might have thought that the debate was scheduled simply as a time filler to occupy those members who, as Lord Foulkes would have it, are too elderly or infirm to have made the trip to Glenrothes this afternoon. However, it has been a useful debate that has allowed a full discussion of the issues, and there have been worthwhile speeches from all sides of the chamber.

I will start by picking up on the philosophical approach that Liz Smith set out at the start of the debate. We would all accept the principles in the UN Convention on the Rights of the Child, but that does not mean that that we would all accept the conclusions in the report of the UN Committee on the Rights of the Child, as it will interpret those rights in a particular way. I raised an important matter of principle in my earlier intervention on the cabinet secretary; namely, that in relation to matters of policy the final decision should be taken in democratically elected fora such as the Parliament, not by unelected and unaccountable officials in committees, no matter how eminent they might be.

A good example of that appears in one of the committee's recommendations that has nothing whatever to do with Scotland—so I cannot be accused of making a partisan point—but relates to

Northern Ireland. The committee recommends that the 11-plus exam in Northern Ireland should be scrapped. I have no view on the 11-plus exam in Northern Ireland, nor would it be appropriate for me to take a view on it. It is appropriate for the matter to be determined only by the people of Northern Ireland, through their democratically elected politicians. When we read what the UN committee has to say, we must conclude that the correct determination of such issues should be made by democratically elected politicians, not by the members of the committee.

Notwithstanding that, the report is well meaning and it is right for us to be informed in our decision making by the opinions that it expresses. In some cases those opinions are unrealistic and in other cases they are, frankly, misguided. Nevertheless, they are valid.

Nicol Stephen, Christina McKelvie and other members have raised the issue of the incorporation of the convention into Scots law. However, I add a word of caution. We all remember the consequences of the incorporation into Scots law of the European convention on human rights—again, something that was done with the best intentions. I do not think that anybody who supported that campaign would have envisaged the situation in which the ECHR was used by those who were incarcerated in prison to claim compensation from the taxpayer for their having to slop out due to a lack of investment in the prison estate. Before we go down the road of incorporating the UN Convention on the Rights of the Child into Scots law, we must be careful to think about the possible consequences of that for wider public policy and the cost to the taxpayer.

The issue of smacking features in the committee's report and features extensively in much of the briefing material that members received in advance of the debate. It is interesting and instructive that almost the only member who has raised the issue during the debate is Marlyn Glen, whose views I know and respect, notwithstanding the fact that I might disagree fundamentally with them. The fact that few other members—if any—have raised the issue of smacking suggests that there is little appetite for our revisiting that debate. It is a nonsense to equate discipline by loving parents with violence against children, which is what the report seeks to do. The two things are a world apart and it is very unhelpful of the report to make that comparison.

Members will recall that, in the previous Parliament, we discussed *ad nauseum* the question of reforming the law on smacking, which led to legislative changes being made. Nevertheless, there was no appetite at that stage for a complete abolition of the right of parents to smack their children. At that time, it was felt that

the current law should continue to apply, which would allow reasonable chastisement.

Marlyn Glen: Will the member give way?

Murdo Fraser: I will give way in a second.

That law has applied and there have been prosecutions under it—rightly so. The law is settled and I believe that, despite the best endeavours of campaign organisations, the public does not wish to see the debate revisited, although I am sure that Marlyn Glen will disagree.

Marlyn Glen: I certainly do disagree with Murdo Fraser. I direct him to the briefings to which he has referred, which mention the research that has been undertaken. There has been a change in attitudes right across Scotland—well, perhaps not right across Scotland, but most of the way across Scotland—just as there has been a change in attitudes almost right across the chamber. I direct Murdo Fraser to the research that shows that, which the briefings mention.

Murdo Fraser: I assure Marlyn Glen that I have carefully read all the briefings that were received. Although she is right to say that the research appears to show that there has been a change of public attitudes, in that fewer parents are admitting to smacking their children, that evidence does not show a desire on the part of the public for the law to be changed. That is an important distinction.

A number of members referred to the age of criminal responsibility. I accept that it is proper that we have a debate on that issue, and that we should not prejudge the outcome of that debate. Public policy seems to be confused about this issue at the moment. In some areas, there is a view that the age at which people become adults is too high, which is why some people, not least those on the Government benches, suggest that the voting age should be reduced from 18 to 16. That might reflect a broad view in society that young people are maturing at an earlier age, which has an impact on the argument that we should raise the age of criminal responsibility. On the other hand, there is a move on the part of the Government to increase from 18 to 21 the age at which young people can purchase alcohol from off-sales premises. In addressing such issues, we need to decide the direction that we are heading in, rather than adopt a piecemeal approach that causes confusion.

I will close by dealing with an important point that we can all agree on but which no member has yet mentioned: the call in the committee's report for the implementation of an anti-trafficking action plan. The trafficking of children for sexual purposes is an appalling crime. What is more, it is a crime that appears to be on the increase internationally. The existence of such trafficking stands as a reproach to us all. I hope that one

thing that we can agree on is that we should do all that we can, working with our colleagues at Westminster and internationally, to stamp out those awful practices.

16:26

Ken Macintosh (Eastwood) (Lab): I will try to deal with a number of the issues that members have raised, but first I want to examine the issue of bullying, as it has not been addressed. It is an important issue because, as ChildLine has confirmed, it is the issue that most vexes children. Despite our efforts over the past decade, most of the calls to the helpline flag up bullying as children's central worry, which highlights the weaknesses in our schools' anti-bullying strategies. I am sure that none of the members who have taken part in this debate is unaware of the damage that bullying can inflict on a child's education, self-confidence and ability to make friends in school, which are all things that parents worry about.

It is disappointing that, despite the excellent work of, for example, the national discipline task force and the various anti-bullying initiatives, bullying remains such an intractable problem. I know that most schools try hard to crack down on bullying, but ChildLine and others suggest that schools could do more to see the problem from a child's perspective. The cases that I have seen over the years make me wonder whether children feel that, sometimes, too much attention is given to the bully and not enough is given to the victim. As we all know, children have an acute sense of fairness, and when we bring the sophistication of adulthood to bear on a problem and acknowledge that complex issues and factors might be at work in the life of the bully, that muddles what might seem to the victim to be a straightforward matter of right and wrong.

We need to do more to address bullying, and must involve children in our efforts to identify the right policies.

Adam Ingram: The member might be aware of the concept of restorative justice. He will be encouraged to learn that it is being put into practice in a lot of our schools across the country to very great effect. It is right that the victim's rights, having been undermined, are recognised and that the bully should make reparation. That approach appears to be working well.

Ken Macintosh: I believe that Clackmannanshire is one of the areas that is taking forward that approach. I look forward to hearing further evidence of the impact of restorative practices in schools. I believe that there are many measures that we can take; what is hard

to believe is that it is taking us all so long to make them work effectively for all children.

The involvement of children is a recurring theme in all the UN's observations, and—whether children face difficulties in school or outside school—we need to do more to encourage greater participation by our young people.

We have made great progress in recent years in establishing organisations such as pupil councils and other mechanisms, but those must be more than tokens. ChildLine specifically suggests that Her Majesty's Inspectorate of Education could inspect and report on schools from a child's point of view. Another practical step that we could take is that of integrating human rights education into the curriculum. We clearly have that opportunity with the curriculum for excellence. I welcome the good example that the cabinet secretary gave of a rights-based approach, which just happened to be in Fife.

As Amnesty International points out, understanding human rights and cultivating the skills to exercise and uphold those rights are key to children becoming both confident individuals and responsible citizens. Teaching children about their rights and about respect for themselves and for others has been shown to reduce bullying. However, it is equally important to ensure that adults are aware of human rights and children's rights.

Marlyn Glen talked about the impact that domestic violence can have on the whole family and on children in particular. Murdo Fraser mentioned that not many members have referred to smacking, but it would be wrong to read into that any approval of the practice—I was disappointed that Murdo Fraser rushed to its defence. The concept of human rights and the values of peace, respect and tolerance are central to challenging our everyday acceptance of violence in children's lives. We need to change attitudes among both adults and children.

I do not doubt the support among MSPs and others for those values, but I worry about the impact of some of the Scottish Government's decisions. Although I do not want to strike an overly contentious note, it would be wrong not to raise concern over what has happened to the budget for Women's Aid groups and other voluntary organisations around the country that deal with domestic violence. Fine words are all very well, but they should be matched by actions. George Foulkes compared the words of the SNP manifesto with the reality of nursery cuts and kitchen closures in Edinburgh. In education departments across the country, budget cuts at the local authority level are hitting classroom assistants and other pupil support services. Surely

ministers can see that that has a direct impact on discipline levels in our schools.

I agree with Mr Foulkes that Karen Whitefield's speech was an all-too-brief but excellent contribution. She made the point that within a tight financial settlement local authorities will always prioritise their statutory duties and that anti-violence initiatives, support for tackling domestic abuse and the voluntary sector in general suffer as a result.

I will now address the issue of play, which I believe should be covered by statute. We have discussed play a number of times in the Parliament. I believe that there is broad support for a national play strategy and, I hope, for a duty on local authorities to consider play as a factor in local issues, such as community planning.

We have all been following events in the United States over recent months. The Americans realised as long ago as 1776 that we should have the right to "the pursuit of Happiness"—perhaps not the right to be happy, but the right to pursue that, at least.

Given our concerns over levels of obesity, mental health and anti-social behaviour, is it not clear that ensuring that our young people have both the opportunity to play and a safe and accessible environment in which to play would help to address those issues and more? The physical benefits of play are well recognised, but play is also essential to our emotional and social development. Many primaries use play to help children make the transition from nursery to school, but I believe that there should be greater freedom throughout the curriculum for play. Testing our children to their limit has placed an overbearing burden on schools and pupils. The curriculum for excellence provides us with the opportunity to loosen the shackles and allow pupils more room to express themselves.

The point was made earlier that the needs of our children outside school must be in the minds of local authority planners when it comes to safe areas for play or even just the establishment of some open spaces. Those areas do not have to be cluttered with play equipment—children are more than capable of using their imagination—but they must be accessible without the need to navigate major roads and traffic.

Barnardo's and other organisations have been promoting the play agenda for some time. It was disappointing that the word "play" did not appear in the first draft of the early years strategy. Play should not be limited to early years, and I was, I think, reassured by the cabinet secretary's comments in her opening speech about the priority that she would give to play.

Scottish ministers have signed up to the targets that have been set by our colleagues at Westminster to abolish child poverty by 2020. That is where I believe we can make greatest progress in addressing the observations of the UN Committee on the Rights of the Child.

We know from the recent Organisation for Economic Co-operation and Development report on education in Scotland that, despite our excellent education system, socioeconomic background is the most important factor that influences a child's attainment and achievement. It is to our discredit that we still have 250,000 children living in poverty and to our shame that 90,000 are estimated to live in severe poverty.

There is no single answer to poverty, but I believe that we need greater transparency about the measures that we claim are being taken to tackle it. That point was made earlier by Mary Mulligan, who quoted, as I will, Save the Children, which says in a briefing:

"The Scottish Government does not currently collate public spending data in a way that can be used to monitor how much spending is allocated towards eradicating child poverty."

We will all have sympathy with that point as we wrestle with our budget briefs in committee. Save the Children continues:

"The Scottish Government must ensure more transparency in the amount spent on ending child poverty and in monitoring this spending."

That comment has been endorsed by Scotland's Commissioner for Children and Young People, who added that a children's rights impact assessment would help to provide transparency and focus our attention on the problem.

A number of speakers commented on the number of children and young people in prison in Scotland. Again, there is a contrast between the remarks that ministers and back benchers have addressed to our colleagues at Westminster about reserved issues and the lack of action by Scottish ministers in their areas of responsibility. I ask the minister a question for further clarification. Since Scottish ministers made their announcement on tackling the problem, have they given local authorities any extra funding to help them establish alternatives to prison?

The debate contained a number of constructive speeches and suggestions. I look forward to hearing the minister's response, for example, to the suggestion that we need an action plan to take the agenda forward and a public health campaign to address the needs of parents and other adults.

I do not doubt the good will or good intentions of members throughout the chamber in promoting the welfare of Scotland's children. However, I hope that our fine words will be translated into firm

actions. I want greater responsibility to be accepted for decisions that are taken here in Scotland, a clearer focus on the children who are in the greatest need, and transparency and clarity of purpose in all Government actions that impact on children. I hope that the UN committee's observations help us to move in that direction.

16:37

The Minister for Children and Early Years (Adam Ingram): I enjoyed hearing the wide-ranging and informative speeches that members made in the debate. I thank all those who took the time to attend this afternoon to discuss such an important issue. How we treat our children is, in many respects, a touchstone of how we should be measured as a society and as a nation. From that perspective, the content and tone of the debate were positive.

The breadth of the debate—we discussed health and justice issues as well as education—clearly demonstrates the coverage and impact of the UN Convention on the Rights of the Child. Promoting and supporting the rights of children in Scotland will lead to better outcomes for all our children.

I hear people complain that children today have too many rights, but it is clear from the debate that we are talking not about giving children anything new or unreasonable but about ensuring that all children enjoy the basic entitlements that we would want for our own children. All children in Scotland should be protected and kept safe in all circumstances and given a high-quality education that meets their needs, develops their potential and prepares them for life beyond school. They should be able to access the health care that they need when they need it and to have their say on all matters that affect them.

It is clear to me that, although we have done much, we still have more to do. In particular, we need to do much more to support looked-after children and those who leave care.

Dr Simpson: Does the minister agree that, given his efforts and those of the First Minister and others to introduce kinship care allowances, it is unacceptable for a local authority such as Stirling Council to announce that it will not provide such allowances this year? There are continued problems with the voluntary placement of children with grandparents or other kin. If the child is not under a supervision order or accommodated under section 25 of the Children (Scotland) Act 1995, their carer does not receive such an allowance. Does the minister agree that that is an unacceptable catch-22 situation that needs to be addressed?

Adam Ingram: We certainly have issues to do with kinship care for looked-after and other

children, and I am not ashamed to say that my main focus is kinship care for looked-after children, for whom we have direct responsibility. The state must intervene to care for those children—that is our first duty. I agree with the member that there are other vulnerable people whom we ought to be able to help, so I am engaged with local authorities on how best to do so. I am slightly frustrated at the pace of that work and I hope that we can get people moving so that a report on progress can be made at the end of this financial year.

We must also continue our work to tackle discrimination and prejudice. Karen Whitefield mentioned Travellers and the Roma. I met representatives from north-east Scotland, who told me about problems that they were having. Restrictions had been placed on them by the settled community, and their children were having difficulty accessing education. Processes that had been put in place, such as the use of the red book, which enables teachers to understand where a child is at in their education, were not being properly adhered to. I am concerned about that and I intend to consider carefully how we can take the agenda forward.

Play, which Karen Whitefield and Ken Macintosh mentioned, will be a key element of the early years framework. The framework, which we will publish later this year, will encompass play facilities and wider issues to do with risk and parental attitudes. We highlighted play in the report, "Equally Well: report of the ministerial task force on health inequalities", in which we talked about the importance of the physical environments that promote healthy lifestyles for children, which should be a priority for local authorities and other public services. We are working with Inspiring Scotland, a venture philanthropy organisation, to conduct baseline research on play, with a view to setting up a fund to support play in Scotland.

Poverty destroys rights. As Rob Gibson and other members said, the scale of child poverty in Scotland is scandalous. Children in Scotland deserve the best possible start in life and no child should be born into or condemned to a life of poverty—it is morally unacceptable that more than 20 per cent of our children live in poverty. The most direct levers for tackling poverty are benefits and tax credits, which are the responsibility of the United Kingdom Government. However, under the current devolution settlement there are three broad ways in which the Scottish Government can take action: preventing poverty by tackling root causes; helping to lift people out of poverty; and alleviating the impact of poverty on people's lives. This month, we will publish our anti-poverty framework, in which we will bring together key areas for action and say how we will address the issue using the powers that are available to us.

I agreed with much of what Nicol Stephen said, in particular on the abuse of children around the world. Scotland is not immune to child abuse, as is evidenced by the growing number of youngsters who have to be taken into care. We will tackle the issue through our early years framework. We want to move towards a system of prevention and early intervention and away from the crisis interventions that mark the current system.

We can and must do better on outcomes for looked-after children and care leavers; I acknowledge what Mary Mulligan said in that regard: she was right to highlight the important role of children's advocacy. I was pleased to be able to secure additional resources for Independent Special Education Advice (Scotland) and others.

The Scottish Government is heavily engaged in the agenda for care leavers and looked-after children, with particular emphasis on improving corporate parenting. Members will be aware that recently we launched "These Are Our Bairns: A guide for community planning partnerships on being a good corporate parent", which spells out the responsibilities of every member of the corporate family team and what we expect from them.

Murdo Fraser and Marlyn Glen disagreed on the issue of physical punishment of children. I support Marlyn Glen's contention that a change in attitude seems to be developing in Scotland. In a survey of parenting that was published this month, around 91 per cent of parents said that they would discuss an issue calmly with their child and explain why something was wrong. Only around 5 per cent said that they had smacked their child in the past year, and 60 per cent said that they had never done so. I do not know whether Murdo Fraser believes the survey.

Murdo Fraser: Does the minister agree that, if the results of the survey are correct, there is no need to change the existing law?

Adam Ingram: I question whether there is a need to change the existing law at this stage; we are not proposing to do so. However, it is a welcome development in our society if parents are not resorting to violence against their children.

Ken Macintosh: Does the minister agree that we should take many other measures to promote the anti-violence initiative? In particular, we should give parents more help, because they struggle with children's behaviour.

Adam Ingram: I agree entirely. Parenting will be a major feature of the early years framework that we will produce early next month.

Robert Brown sought an indication of whether we will incorporate the UN Convention on the

Rights of the Child into Scots law. Major elements of the convention have already been incorporated into Scots law, and we are considering what further changes to legislation, policy and practice can be made to implement the convention better in Scotland. Ministers have asked officials to explore what can be done, and we hope to publish proposals in due course.

Murdo Fraser raised the issue of the age of criminal responsibility. Although, at eight, the age of criminal responsibility in Scotland is extremely low compared with the European average, our welfare-based system of children's hearings is well in advance of most of the rest of Europe. We cannot take the age of criminal responsibility as a measure of how modern or appropriate our system is. However, we will consider the issue in the context of the incorporation of the convention into our law.

Margo MacDonald (Lothians) (Ind): Can the minister supply us with comparisons between the criminality of children elsewhere in Europe and that of our eight-year-olds?

Adam Ingram: No, I cannot. We have looked at the statistics for the past six years, and we cannot find any eight-year-olds appearing in the Scottish courts at all. As I said, we will examine all the evidence in the course of our review of incorporating the convention.

I thank all members who have contributed today. We are committed to taking action—action that is informed and proportionate, that will improve the rights of children in Scotland and that will secure better outcomes for all of them. We have begun the information-gathering process today, and it will continue over the next few months as we seek the views of those who know and care about children—and, perhaps most important, the views of children and young people themselves.

Our children are the future; they are also the present. There is much that we can do and much that we should do, now and in the coming months, to improve what we do for children and to help them achieve their potential. Ultimately, that will be the test. It is not about what we say we will do for our children; it is about what we actually deliver for them.

16:51

Meeting suspended.

17:00

On resuming—

Decision Time

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

Community Service Volunteers

The Deputy Presiding Officer (Alasdair Morgan): The final item of business is a members' business debate on motion S3M-2693, in the name of Nanette Milne, on Community Service Volunteers. The debate will be concluded without any question being put.

Motion debated,

That the Parliament commends Community Service Volunteers (CSV) for its strong track record in supporting retired people to engage with their local communities as volunteers; congratulates the Energy Challenge project in Aberdeen, which trains older volunteers to bring fuel efficiency and energy savings advice to people in their own homes to ensure that they stay warm and have energy-efficient homes; notes that, in view of government funding ending in March 2009, CSV's support to 1,600 older volunteers working in their local areas will come to an end, which will have a huge impact on communities and individuals across Scotland, and believes that consideration should be given to how continued support can be provided for volunteer-involving organisations.

17:01

Nanette Milne (North East Scotland) (Con): I am pleased to have been given the opportunity to highlight the valuable work that is done in Scotland by Community Service Volunteers, which is a national charity that promotes volunteer involvement as a route to strong communities and better public services. I thank the MSPs from all parties who have supported my motion.

CSV has nearly 50 years' experience of developing and managing volunteering programmes in response to public need. The organisation's objectives are to give everyone—whatever their circumstances, age or health—the opportunity to volunteer and to use volunteers to benefit public services. More than 14,000 volunteers are involved in CSV projects and placements and in their campaigns, such as the make a difference day, which I and many other MSPs support each year.

CSV oversees eight programmes, but I will focus on the retired and senior volunteer programme—RSVP. I am sure that the Presiding Officer will allow me to extend a warm welcome to the more than 30 RSVP volunteers who are in the gallery to listen to the debate. Some of them might wonder why not too many MSPs are in the chamber. I ask them not to see that as a lack of interest in the valuable work that they do; rather, it is possibly because two by-elections are taking place not far from here today. I look forward to meeting the volunteers after the debate and I hope that some of my colleagues can join us for a little time in committee room 4.

RSVP has a strong track record of supporting retired people to volunteer in their communities, where 1,600 of them provide a much-valued service in schools, general practitioner practices, care homes and myriad other places. Indeed, RSVP volunteers clock up an amazing 64,000 hours of service each week. Just think what that must save the taxpayer. Those people not only cut the costs of public services, but build up relationships with and support many elderly and vulnerable people who greatly appreciate their efforts and commitment.

The volunteer work is very varied and I can give only a few examples this evening. Volunteers drive patients to hospital and clinic appointments, help people with shopping and visit and befriend people who live alone and who have no other outside contacts. In Stirling, they organise health walks for patients with heart disease and diabetes. Throughout Scotland, older volunteers have helped 360 primary school classes to read and write.

In the north-east, several groups of older people—including one who is over 90 years old—keep their joints supple and their minds active by knitting a large array of items, which are then donated to maternity units, family support units and charities such as Blythswood Care and the New Hope Trust. Those groups have donated nearly 4,000 items in the past year and the feedback from them is that the knitters derive great satisfaction from using their talents to help people in their communities and beyond. They benefit from social contact with their peers and they feel valued. One sheltered housing warden said of her group, “They don’t all knit. One lady is the sewer-up of teddies, one lady is the filler and one lady keeps everyone right.” That is a win-win situation in which everyone benefits.

Jack McConnell (Motherwell and Wishaw) (Lab): I agree absolutely that the reading and writing programme in primary schools is a huge success and very effective. Does the member agree that a successful and innovative programme could result from Jamie Oliver’s recent “Ministry of Food” television series in which he talked about the need during World War II for cooking skills to be passed from one generation to another. Does Nanette Milne agree that we should encourage more schemes around the country whereby the older generation can pass on their cooking skills to a generation of teenagers who live in homes where many of those skills have been lost? Perhaps the Minister for Enterprise, Energy and Tourism will also respond to the suggestion.

Nanette Milne: I absolutely agree. I have advocated such a suggestion in my area. The older generation has a great deal of good experience to pass on, not only in cooking but in

gardening and all sorts of things. I agree absolutely with the suggestion. Cooking is a case in point.

The final example of volunteer work is the energy efficiency challenge, which began as a two-year pilot in January 2006. It is a partnership between CSV, Exxon Mobil and Energy Action Scotland, which has funding from Exxon Mobil until the end of next month. The project recruits and trains older volunteers to bring fuel efficiency and energy savings advice to vulnerable people in their own homes—advice that will help them to achieve improved energy efficiency and therefore greater warmth. The work is on-going in Edinburgh, Stirling, Fife, Angus, Dundee and Perth. Assuming that current efforts to secure funding are successful, there is the prospect of the project expanding to Glasgow, Lanark, Ayr, the Borders and Inverness.

In Aberdeen, an embryonic project is under way with the city’s Chinese community, which will hopefully be extended to other ethnic minorities in the city. Those are only a few examples of the work of RSVP volunteers. I am sure that subsequent speakers will give more.

This work is extremely important and cost effective. The staff-to-volunteer ratio of RSVP is one paid worker to 200 volunteers. It costs £250 to recruit, train and support a primary care or schools volunteer. That is insignificant money when one compares it with the cost of putting an elderly person into hospital, a child into care, or of someone leaving school unable to read, all of which can have long-term cost implications.

RSVP has many successful local partnerships with public service providers, but the funding that it receives from that source cannot cover costs. Despite its best efforts to secure other funding, the Government’s core grant to the charity is essential to help it to lever in additional money. Unfortunately, RSVP is in year 3 of a three-year grant and has been told that the grant will not be renewed at the end of the financial year because its work does not match the criteria for the Government’s new funding priorities. Its small team—six development staff and two part-time administration posts—is under threat of redundancy unless an alternative means of funding can be found. Many valuable projects that its volunteers have built up over the years could wither on the vine if that Government support is withdrawn.

I hope that the minister understands the very serious concerns of RSVP, and its many volunteers. I entreat him to meet the charity in the very near future to try to find some way of ensuring that its work can continue. To lose RSVP would not only have an adverse impact on the lives of many vulnerable people in Scotland, but

would put a significant strain on some already overstretched public services. Scotland needs these volunteers. It is only right that they should receive support for the work that they do.

17:08

Dr Richard Simpson (Mid Scotland and Fife) (Lab): I congratulate Nanette Milne on obtaining the debate, which is important not only for CSV but for the general principles of funding volunteers and volunteer organisations.

The days have gone when volunteers were considered simply as interested amateurs: volunteers require training and support. Indeed, it would be inappropriate for volunteers to be allowed without appropriate training to enter many of the situations into which they are put, and to do so could expose them to harm and risk. The professionalism of the core organisation needs to be recognised as an absolutely crucial partner in the delivery of many of our care operations.

I was delighted to attend a meeting in the Golden Lion Hotel in Stirling last year of volunteers in the Stirling area. Stirling has one of the highest rates of CSV-supported volunteers—I believe that there are more than 400 of them. As Nanette Milne indicated, there are many different schemes. For example, I learned that it takes only one volunteer to change a light bulb. Volunteers will go into a person's house to change a light bulb for them if they are unable to reach high enough. Such small tasks help to maintain people's independence and can be crucial to their wellbeing.

The range of volunteering is absolutely massive; it might involve driving people to appointments, performing an advocacy role—even if it is not a formal one—befriending someone or taking part in walking groups and knitting circles. It is vital that we support all those volunteers.

Too often, older people—I can say this, as someone who has reached pensionable age—are seen simply as a cost centre for Governments, when in fact they are the most important resource for developing the cohesiveness of our society. As the age demographic changes and life expectancy continues to increase—it has increased by two and a half years over the past 10 years—large numbers of people in their late 70s or early 80s will volunteer. They will be fit and active, and able to make a major contribution.

I have a suggestion to make in addition to the one that was made by my colleague Jack McConnell, which relates to work that I did with volunteers in the nursing home that I was involved with in Manchester. I got volunteers to help tell stories to the young people whom we brought in to the nursing home at teatime, as they were on their

way home from school, which meant that they stopped being latchkey kids and got involved in their community. It was a mixed community—there were many older West Indian people in it. By getting someone to train them to tell their stories properly, we were able to establish a verbal history for many families, which was important. That is just one illustration of what can be done.

During the power cuts that occurred in the 1970s under the Conservative Government—I say to Nanette Milne that that was just the way that it happened—we were extremely concerned about elderly people in our community being left isolated for long periods during power cuts. We got together a group of local volunteers, but our problem was that because we did not have contact with CSV, we could not train them. Training, which we were lacking, is extremely important. Another volunteer organisation that I have been involved with played a huge role at the Strathcarron Hospice, but in that case we trained the volunteers.

I am becoming repetitive, so I will stop. CSV is an organisation that requires funding, for the sake of all the good that its volunteers do.

17:13

Nigel Don (North East Scotland) (SNP): I thank the wonderful audience for tonight's debate. It is not the best of days to come to Edinburgh, so I hope that the people in the gallery have not come desperately far on such a dark and dismal evening. On behalf of members who are not here, I apologise for the very small attendance which, as Nanette Milne has explained, has to do with political activities elsewhere rather than with the significance of what we are discussing.

I congratulate Nanette Milne on securing this debate on an important issue. What makes it so important is that as we grow older—my increasingly grey hair reminds me that time moves on—we develop two important characteristics: experience and patience. Those characteristics are hugely valuable in the voluntary activities that CSV and many other voluntary organisations carry out.

As other members have done, I have done some research into what the RSVP does. Among the activities that caught my eye was provision of a talking newspaper in Glasgow. There must be hundreds of folk in Glasgow who benefit from that and there must be many more around the country who wish that they had such a thing. I also picked up on the work that is done in Lanarkshire, in particular, on storytelling and reading aloud. Many people would benefit from having a good story read to them instead of having to put up with what

is, sadly, mostly drivel on the television; in general, radio programmes are rather better.

Time marches on, so let me bring myself to the point, which is about funding. I know what the minister will say about how funding has changed—we all respect, I think, the way in which ring-fenced funding has largely gone—and how local authorities are expected to work in other ways.

Jack McConnell: Does Nigel Don agree that, particularly when relatively small sums of money are involved, the amount of time and effort that voluntary groups have to divert from core activities to the pursuit of grant funding from 32 different local authorities would be far better spent encouraging volunteers in the community? I hope that he—and perhaps his absent colleagues—will agree with the other political parties that the provision of core funding from central Government should be reconsidered by Scottish National Party ministers rather than dropped. Such funding would allow volunteers to be given training and back-up. It is not so much that they desperately need such back-up but that it would encourage more and more people to come forward.

Nigel Don: Mr McConnell makes a perfectly valid point. Of course, some things are done locally, so working through the local authority is entirely appropriate. Plainly, other organisations work nationally, so it must be right to say—the minister will surely agree—that requiring them to submit 32 applications must be crazy. I do not think that anyone will fall out with the member over that. It is incumbent on Government to ensure that the balance of funding sorts that out. I have not the slightest doubt that that is the Government's intention, but whether it always works is a question that the minister will need to answer.

Moving on swiftly, I want to mention the energy challenge in Aberdeen. I welcome the involvement of Exxon Mobil in that project, but I recognise that many other corporations with significant roots in Aberdeen and in other parts of the country—I do not want to be too parochial about this—could provide funding to local initiatives without that even being measurable on their balance sheets or profit and loss accounts. Without wanting to rehearse the familiar problems with funding at Aberdeen City Council, given that life is difficult all around the country, I encourage any corporate listeners to consider how they could make a significant difference by providing, as we have seen, relatively small sums of money for organisations such as RSVP in their local communities. Businesses need to be encouraged to consider that.

17:17

Robert Brown (Glasgow) (LD): I join others in congratulating Nanette Milne on securing this important debate. I agree with every word that she said on the matter.

We have had many debates in the Parliament on the value of the voluntary sector and volunteering. I have spoken in many of those and have no doubt made similar points. I have heard many strong pleas to support the sector, to entrench funding for core costs and to nurture the value of the voluntary sector and volunteers. It is disappointing that the debates in the current parliamentary session have so often been on cutbacks, struggles for funding and the sense that the Government does not quite understand the diversity and needs of the sector. I want to make a number of points about that.

Our previous such debate was on the SNP Government's decision to axe much of the funding for ProjectScotland; today's debate is on CSV. From my time as Deputy Minister for Education and Young People, I know of the value of some of the literacy and numeracy projects that we have heard about today. Behind those individual issues, there lurks a fear that the total results of current Government policy—whether that be the knock-on effects of the council tax freeze or the overemphasis on social enterprise—are damaging to the potential for volunteering and the strength of the voluntary sector. They push it to the margins and understate its contribution.

The axing of funding to CSV's retired and senior volunteer programme is specifically because the programme does not fit the new Government priority, which is all about supporting social enterprise organisations. The priority itself is not unworthy—I do not disagree with it to that extent—but it fails to recognise that not all, or even the majority, of voluntary sector projects fit that pattern. Indeed, the nature of their contribution often makes that impossible. I am all in favour of local decision making, but there is a tension in putting everything through the local community planning framework. In practice, that tends to exclude certain sectors and to sideline national bodies, which have the expertise to which Jack McConnell and others have referred. Such bodies have the physical resources but find it difficult to engage with 32 local authorities and even more difficult to attract reliable and adequate funding when that discretionary spend is fighting with statutory services for resources.

As we have heard, the RSVP volunteers provide 64,000 hours of service weekly, through 1,600 older volunteers right across the board. Such work is very difficult to replace. It is a major resource, but the costs of supporting it are about £250 per person per annum, which is modest.

The cutting of funding follows the cut to the programme for disadvantaged young people in February. As the minister will no doubt tell us, no project has the right to be funded for ever, regardless of its worth. I agree with that. Voluntary sector groups rise and fall. Some do well, but others lose their focus and deserve to be killed off. Meanwhile, new ideas clamour for funding. However, it takes time and effort to build an organisation, to establish key links, and to test and improve a service. It is counterproductive to kill off major projects without first identifying the successes and failures. I therefore join Nanette Milne in her plea to the minister to think again about the support given to CSV. More broadly, I urge him to consider how continued support can be given to organisations that involve volunteers. I urge him to re-examine how Government policy can have both intended and unintended effects on volunteering and the third sector.

The third sector is vital to the fabric of Scotland's communities—not least in these harsh economic times. CSV is a specific case, but broader issues lie behind it. I hope that the minister will be prepared to meet the organisation to discuss the issues open-mindedly. We have to recognise the value of central organisations in providing the support that we have been hearing about and we have to reconsider the removing of support from this very valuable project.

17:22

Margaret Mitchell (Central Scotland) (Con): I add my congratulations to Nanette Milne on securing a debate on this vital issue and I welcome the volunteers from CSV to the public gallery. The fact that so many volunteers have come shows the strength of feeling on the issue that we are debating.

Community Service Volunteers was founded in 1962 by Mora and Alec Dickson, who, incidentally, also founded Voluntary Service Overseas. The aim of the founders was to involve young people aged between 16 and 35 in voluntary service in the United Kingdom; to enrich the lives of volunteers and those whom they help; and to generate social change.

Today, CSV aims to strengthen communities by improving public service outcomes through the involvement of volunteers, and by giving everyone the opportunity to volunteer regardless of their circumstances, age or health. I have no doubt that CSV's work over the years has contributed to Scotland being regarded as leading the way in Europe in innovation and good practice in volunteering.

There are numerous examples of projects that retired volunteers have been involved in, but I

want to bring one in particular to the minister's attention. It is a befriending project that is based in Motherwell. The project offers a service to 30 young people who are aged between eight and 18. It is a partnership between CSV and North Lanarkshire Council's social work department. It recruits local adults to befriend the young people, who are referred by social workers on the basis of their difficult home circumstances.

Through the volunteers, the young people—often for the first time in their lives—have someone who takes an interest in them. The young people have the opportunity to discuss, in an informal environment, any difficulties or problems that they might be experiencing. They are encouraged to develop new interests and hobbies, and to use their leisure time constructively. For many of the young people, the time that they spend with the volunteer is probably the best part of their week.

Politicians are fond of speaking at length about the advantages of promoting intergenerational activities to facilitate dialogue between younger people and older people, and to foster a better understanding and tolerance between the two groups. It therefore makes no sense that, as Nanette Milne explained in some detail, the Scottish Government is in effect now proposing to cut the funding to CSV's retired and senior volunteer programme, which delivers practical examples of intergenerational activity that works, such as the befriending project.

As with so many of the CSV RSVP projects, the difference that the befriending project makes to young people cannot be quantified. It is sufficient to say, however, that if the social work department tried to replicate the service, I doubt that it would have the resources in terms of staff or finances to do so. I urge the minister to think again about withdrawing the funding. I also support Robert Brown's plea to the minister to examine general funding policy for the voluntary sector. I hope that the minister will take up the offer to meet the CSV volunteers.

17:26

Mary Mulligan (Linlithgow) (Lab): I congratulate Nanette Milne on bringing this debate to the chamber. I confess that I was not originally going to speak—I hope that no one would view that as a lack of commitment to volunteering. Like other members, I am always inspired by the many people who give their time freely for the benefit of others. This time last week, I hosted a reception in the Parliament, which Margaret Mitchell also attended, for people who are involved with contact centres, many of which are staffed by volunteers.

I join Nanette Milne in congratulating those who are involved in the energy efficiency challenge. No one could be unimpressed by what she described.

I was encouraged to stay for tonight's debate when I heard that there was a threat to the funding of the retired and senior volunteer programme. I understand that RSVP is one of eight programmes under the CSV umbrella, and that it is in the third year of a three-year funding package. However, I cannot understand why the Scottish Government would allow such valuable work to fold.

We have heard examples of the work that is carried out, such as the provision of transport to hospitals, the healthy walks programme and help for children to boost literacy and numeracy levels. In my own constituency of Linlithgow, volunteers help out in schools and in Falkirk royal infirmary. Those examples all add up to the provision of many years of service.

I understand that representatives of CSV met the Cabinet Secretary for Finance and Sustainable Growth, John Swinney, in July, and I am sure that he was equally impressed. However, I suggest to the Minister for Enterprise, Energy and Tourism that any chance of local authorities picking up the funding for the CSV programme is remote. At present, only three local authorities—Stirling Council, Falkirk Council and Scottish Borders Council—contribute to the programme, and I hope that they will continue to do so.

Last week, in the Local Government and Communities Committee, I heard representatives from the Convention of Scottish Local Authorities outline the pressures on local government budgets. This week, I had the benefit of hearing Mr Swinney tell us that up to £70 million of additional money will be available to local authorities to freeze the council tax—but that was it. I ask the minister where he thinks local authorities will find the extra money for volunteering.

Older people are the fastest-growing group in our communities. Many of them have time and energy and want to contribute to those communities. I am sure that the minister agrees that one of the best ways for them to stay both physically and mentally healthy is to stay active. Just this week, I happened to call on a woman in a certain new town in Fife who told me that she would vote on Thursday after she had been to the charity shop in the village. She was 93, and would put many of us to shame. Examples of volunteering in older age groups are there for all of us to see.

RSVP appears to fit well with a whole host of strategies for older people, therefore I cannot understand the threat to its funding. RSVP received a grant of £350,000, but it levered in

additional money to take that up to £480,000, so it is aware of the need to make the public pound go further. All I ask of the minister is that he further consider the loss to volunteers and people who benefit from their help if funding is not renewed. If, as Nanette Milne suggested, he meets CSV, I believe that there will be a much more positive outcome.

17:30

The Minister for Enterprise, Energy and Tourism (Jim Mather): I put on record my congratulations to Nanette Milne on securing today's debate, and I welcome Claire Stevens, my friend Alasdair Hutton and the many RSVP volunteers in the public gallery.

This debate has been useful, and has underlined the value that all parties place on volunteering and its importance to Scotland's success and social fabric. The Scottish Government is keen to recognise the major contribution that is made by CSV and its programme for retired and senior volunteering. As someone who was born in 1947, I am keenly aware of that, because it will be my turn at some point. The track record of altruism, patience, experience, skill, warmth and empathy speaks for itself. Members have spoken eloquently about that.

However, we are in a changing landscape. We have the concordat agreement between the Scottish Government and local authorities, which is based on mutual respect and partnership and brings in local authorities as part of the overall system in Scotland. Key to that concordat is a reduction in ring fencing and the development of single outcome agreements.

We have taken steps to enable local decision making on local issues. We believe that that is right for local people and the delivery of local solutions, and that it will enhance those solutions over time. Indeed, I have spent considerable time in my constituency and others talking to community planning partnerships and bringing together the council, the health service, the education service, the business community and, most important, the voluntary sector.

Robert Brown: I have a question about head office functions for organisations such as CSV. It is okay for them if they are dealing with one authority, but does the minister agree that the effort and input in dealing with 32 local authorities—as opposed to applying for central core funding—is disproportionately high?

Jim Mather: We are dealing with an evolutionary process, and I expect something to evolve that is based on sound roots, is much

stronger and is more effective on a totally different and larger scale.

The member refers to the fact that successive Scottish Governments have been happy to fund projects proposed by CSV and RSVP, but they have always been fixed-term projects and that funding did not represent core funding. Many national volunteer organisations have been active for many years without seeking central Government support, and many nationally active organisations that used to look to Government have approached local authorities directly and found significant interest. The Prince's Scottish Youth Business Trust is a fine example of that, and it has recorded the advantages and synergies that it has achieved. We firmly believe that CSV and RSVP have much to offer to the ethos of community planning partnerships and the ability to deliver single outcome agreements.

George Foulkes (Lothians) (Lab): I am slightly perplexed. The minister has said nice things about CSV and RSVP, but he knows from all the other pressures that local authorities are having financial difficulties—not just in Edinburgh and Aberdeen but throughout the country. How, therefore, could the First Minister allocate £500,000 to the Scottish-Islamic Foundation before it even made an application, when CSV is being given no money? Is there not some paradox, problem or conflict?

Jim Mather: There is no paradox; there is a huge opportunity for us to work better, more effectively and from deeper local roots. The key point is that we are keen for the third sector to engage strongly at a local level. It is right that local decisions are made locally, and we are more than willing to meet CSV and enter into new discussions so that it can achieve at a local level.

We recognise that volunteers are essential to the new way of working and must be properly supported. The RSVP energy challenge project, which rightly has been praised by members, is a great example of private and third-sector funding bringing volunteers to the fore in delivering high-quality energy advice, working in ways that no public-private agency does, and providing trusted altruistic intermediaries and facilitators. I have no hesitation in commending the partnership of Exxon Mobil, Energy Action Scotland and RSVP. No Government funding was asked for and none was needed. Exxon's funding will continue well into next year, and it is an example on which we can build.

George Foulkes: I am finding this very difficult. All those sweet words mean nothing. Edinburgh is closing kitchens and nurseries and cutting back other provisions. It is not going to be able to find extra money for voluntary organisations. As Robert Brown rightly said, the Government ought

to provide core, central funding. Surely the Government has a responsibility to do that, and if it can do it for other organisations—one of which I have already mentioned—surely it is even more important to do it for CSV.

Jim Mather: The member ignores the fact that we are trying to create a new, organic, more widely based approach that will be more able to generate revenues and work in synergy.

I spent last week in Lochgilphead with the health secretary, running a session on the list of allies and stakeholders. We are looking to ensure that the voluntary sector works well with our councils, education system and health service in a way that saves each money and relies on real synergies. I am sure that a pound in the hands of the CSV would go considerably further than it would in the hands of the health service.

We are keen to ensure that the third sector, including every aspect of volunteering, is able to make its vital contribution to Scotland, and we will put time in to ensure that people understand that. Making local decisions on local matters, supported by the third sector, offers huge opportunities for communities and a better chance for the third sector to grow organically while removing the need to chase funding to the extent that we have seen in the past. We now have a task group, jointly assembled by the Scottish Council for Voluntary Organisations, COSLA, the Society of Local Authority Chief Executives and the Government, to ensure that that happens. That group will be happy to consider whatever support bodies such as RSVP need to play their full role. We are open to their overtures and we will meet them and hold a dialogue.

Dr Simpson: It is clear that the minister and the Government are not going to reconsider central funding, and that national organisations such as CSV will have to apply to the 32 different local authorities, but will he extend the current funding so that we can attest that the transition is as he says it should be?

Jim Mather: John Swinney has written to Claire Stevens offering to help make contacts and move things forward, and we will honour that to the letter. Every member understands that volunteering is at the heart of our communities, and the Government is determined that the vital army of volunteers should be able to achieve its goals. The Government will not throw the baby out with the bath water. We will move on with CSV and RSVP to get the best possible outcome and a robust mechanism that will grow, last and deliver for them and their communities, which is what we all want.

Meeting closed at 17:38.

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