

MEETING OF THE PARLIAMENT

Thursday 11 February 2010

Session 3

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CONTENTS

Thursday 11 February 2010

Debates

	Col.
BUSINESS MOTION	23727
<i>Motion moved—[Bruce Crawford]—and agreed to.</i>	
HOME OWNER AND DEBTOR PROTECTION (SCOTLAND) BILL: STAGE 3	23728
HOME OWNER AND DEBTOR PROTECTION (SCOTLAND) BILL	23732
<i>Motion moved—[Alex Neil].</i>	
The Minister for Housing and Communities (Alex Neil).....	23732
Mary Mulligan (Linlithgow) (Lab)	23735
David McLetchie (Edinburgh Pentlands) (Con)	23737
Jim Tolson (Dunfermline West) (LD)	23739
Bob Doris (Glasgow) (SNP).....	23740
Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab).....	23742
John Wilson (Central Scotland) (SNP)	23744
Patricia Ferguson (Glasgow Maryhill) (Lab)	23746
Ross Finnie (West of Scotland) (LD).....	23747
Jamie McGrigor (Highlands and Islands) (Con)	23749
Mary Mulligan	23750
The Minister for Community Safety (Fergus Ewing).....	23751
BBC ALBA	23754
<i>Motion moved—[Fiona Hyslop].</i>	
<i>Amendment moved—[Pauline McNeill].</i>	
<i>Amendment moved—[Ted Brocklebank].</i>	
<i>Amendment moved—[Iain Smith].</i>	
The Minister for Culture and External Affairs (Fiona Hyslop).....	23754
Pauline McNeill (Glasgow Kelvin) (Lab)	23757
Ted Brocklebank (Mid Scotland and Fife) (Con)	23759
Iain Smith (North East Fife) (LD)	23761
Alasdair Allan (Western Isles) (SNP).....	23763
Peter Peacock (Highlands and Islands) (Lab).....	23766
Dave Thompson (Highlands and Islands) (SNP)	23768
Lewis Macdonald (Aberdeen Central) (Lab).....	23769
Rob Gibson (Highlands and Islands) (SNP)	23771
Ken Macintosh (Eastwood) (Lab)	23772
Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)	23774
Jamie McGrigor (Highlands and Islands) (Con)	23776
Pauline McNeill.....	23777
Fiona Hyslop.....	23779
QUESTION TIME	23782
FIRST MINISTER'S QUESTION TIME	23791
QUESTION TIME	23804
FEMALE OFFENDERS IN THE CRIMINAL JUSTICE SYSTEM	23820
<i>Motion moved—[Margaret Mitchell].</i>	
Margaret Mitchell (Central Scotland) (Con).....	23820
The Cabinet Secretary for Justice (Kenny MacAskill)	23824
Richard Baker (North East Scotland) (Lab)	23828
Bill Aitken (Glasgow) (Con)	23831
Robert Brown (Glasgow) (LD)	23833
Angela Constance (Livingston) (SNP).....	23835
Elaine Smith (Coatbridge and Chryston) (Lab)	23837
Bill Kidd (Glasgow) (SNP)	23840
Mike Pringle (Edinburgh South) (LD)	23842
Malcolm Chisholm (Edinburgh North and Leith) (Lab)	23845
Christina McKelvie (Central Scotland) (SNP).....	23847
James Kelly (Glasgow Rutherglen) (Lab).....	23850

Hugh O'Donnell (Central Scotland) (LD)	23851
John Lamont (Roxburgh and Berwickshire) (Con)	23853
Johann Lamont (Glasgow Pollok) (Lab)	23855
Kenny MacAskill	23858
Marlyn Glen (North East Scotland) (Lab)	23861
POINT OF ORDER	23864
BRIBERY BILL	23866
<i>Motion moved—[Kenny MacAskill].</i>	
CRIME AND SECURITY BILL	23867
<i>Motion moved—[Kenny MacAskill].</i>	
PARLIAMENTARY BUREAU MOTION	23868
<i>Motion moved—[Bruce Crawford].</i>	
BUSINESS MOTION	23869
<i>Motion moved—[Bruce Crawford]—and agreed to.</i>	
The Minister for Parliamentary Business (Bruce Crawford)	23869
DECISION TIME	23872
GENERAL PRACTICE WEEK	23874
<i>Motion debated—[Dr Richard Simpson].</i>	
Dr Richard Simpson (Mid Scotland and Fife) (Lab)	23874
Ian McKee (Lothians) (SNP)	23877
Mary Scanlon (Highlands and Islands) (Con)	23879
James Kelly (Glasgow Rutherglen) (Lab)	23881
Ross Finnie (West of Scotland) (LD)	23882
Malcolm Chisholm (Edinburgh North and Leith) (Lab)	23883
The Minister for Public Health and Sport (Shona Robison)	23885

Oral Answers

Col.

QUESTION TIME	
SCOTTISH EXECUTIVE	23782
GENERAL QUESTIONS	23782
"Review of Fatal Accident Inquiry Legislation"	23784
Community Planning	23787
Dangerous and Antisocial Parking	23788
Flooding	23789
Legal Highs	23783
Private Finance Initiatives and Public-private Partnerships (Funding)	23786
Scottish Qualifications Authority Awards	23789
Summary Justice Reforms	23782
FIRST MINISTER'S QUESTION TIME	23791
Cabinet (Meetings)	23796
Engagements	23791
Local Authorities (Resources)	23799
Primary Care Medical Services	23798
Prime Minister (Meetings)	23794
Wind Turbines	23801
QUESTION TIME	
SCOTTISH EXECUTIVE	23804
HEALTH AND WELLBEING	23804
"Scotland's Sporting Chance: a Manifesto for Sport in Scotland"	23809
Eating Disorder Services (Children and Young People)	23817
Fuel Poverty	23811
Health Care Associated Infections	23816
Health Protection Scotland (Meetings)	23813
Maternity Services (Greater Glasgow and Clyde Health Board)	23804
Measles, Mumps and Rubella Vaccination	23813
New Pyjamas Campaign	23806
NHS Fife (Meeting with Chief Executive)	23812
NHS Fife (Meetings)	23807
Patient Transport Services	23814
Personal and Nursing Care (Adults with Disabilities)	23818

Scottish Parliament

Thursday 11 February 2010

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

Business Motion

The Presiding Officer (Alex Fergusson): Good morning. The first item of business is consideration of business motion S3M-5717, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 of the Home Owner and Debtor Protection (Scotland) Bill.

Motion moved,

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

Groups 1 and 2: 15 minutes.—[*Bruce Crawford.*]

Motion agreed to.

Home Owner and Debtor Protection (Scotland) Bill: Stage 3

09:15

The Presiding Officer (Alex Fergusson): The next item of business is stage 3 of the Home Owner and Debtor Protection (Scotland) Bill. In dealing with amendments, members should have the bill as amended at stage 2, which is SP Bill 32A; the marshalled list of amendments, which is SP Bill 32-ML; and the groupings, which I, as Presiding Officer, have agreed. The division bell will sound and proceedings will be suspended for five minutes before the first division this morning. The period of voting for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate. All other divisions will be 30 seconds.

Section 2—Court applications by creditor for remedies on default

The Presiding Officer: Group 1 is entitled “Disposal by court on security holder’s application”. Amendment 2, in the name of Mary Mulligan, is grouped with amendment 3.

Mary Mulligan (Linlithgow) (Lab): At stage 2, I lodged two amendments that sought to introduce reasonableness tests at sections 2 and 3 of the bill. The aim was to require the court to take into account whatever is reasonable in all the circumstances of a case before making its determination. As members of the Local Government and Communities Committee will remember, one of my stage 2 amendments was agreed to and the other was rejected. Unfortunately, as a result, the court will now be asked to consider slightly different issues, potentially with different powers and discretions, depending on whether a repossession application is made under the Heritable Securities (Scotland) Act 1894, to which my reasonableness amendment at stage 2 applies, or the Conveyancing and Feudal Reform (Scotland) Act 1970, to which it does not.

I am sure that we all agree that consistency between those two acts is vital so that the same protections, responsibilities and powers apply to the court, borrowers and lenders regardless of the act under which an action is taken. It was not the intention of any committee member to end up with significant differences between the tests in the two acts. I therefore seek to rectify the situation through amendments 2 and 3, which will ensure the necessary consistency in the courts’ consideration of creditors’ applications for repossession. It is vital that the requirement and

discretion for the court to do what it thinks is reasonable in the circumstances should apply to actions for repossession under the 1894 and 1970 acts.

Amendments 2 and 3 build on my stage 2 amendments, which were based on proposals by the Scottish Association of Law Centres, with which the Government and I have had further discussions. Amendments 2 and 3 will make it explicit that the court has discretionary power to make any order that it sees fit, including a continuation order, provided that it is satisfied that the lender has complied with the pre-action requirements, and it is reasonable in the circumstances of the case to do so. For example, the amendments will remove any doubt about whether the court has the power to delay repossession in cases in which the defender does not dispute that the lender has complied with the pre-action requirements, but simply seeks more time to find alternative accommodation. I acknowledge that the Government wishes to achieve that, too.

Amendments 2 and 3 provide a good balance in that they will further protect the interests of the debtor without compromising the rights of the lender. I acknowledge that the Government expressed concerns at stage 2 about the potential impact of my amendments on court costs and the programming of other court business if sheriffs felt obliged to adjourn every undefended case to seek further information. Although I understand that the Government does not consider that that is likely to happen in practice, my amendments go some way towards addressing those concerns while ensuring that sheriffs are required to consider what is reasonable in the circumstances and that they retain the discretion to adjourn hearings in order to secure further information if they judge that to be necessary.

Ministers will no doubt respond to the amendments during the debate, but I understand that they share my view on the need to ensure consistency between the 1894 and 1970 acts, and that they support my objective, which is to achieve the best possible protection for those who are at risk of repossession, while balancing the overall impact on court time and other court business. I believe that my amendments will achieve that balance and I therefore hope that members will support them.

I move amendment 2.

The Minister for Housing and Communities (Alex Neil): We have worked closely with Mary Mulligan on her amendments 2 and 3 since stage 2. I hope that the Parliament will unite behind them. As she said, the amendments build on her stage 2 amendment that required sheriffs to consider the reasonableness of applications. The

effect of these stage 3 amendments will be to ensure consistency between the 1894 and 1970 acts and the bill, and to ensure that the legislation is workable in practice.

I fully accept the need for amendments 2 and 3 and consider that they will reduce the risk that a court would feel obliged unnecessarily to continue every undefended case to another hearing—which was our primary concern at stage 2—while allowing sheriffs to adjourn cases to seek further information if they believe that that is necessary.

We still have concerns about the potential impact on other court business, so we will monitor that carefully during the implementation period. However, I welcome amendments 2 and 3, which will ensure consistency between the two relevant acts and the bill when it becomes an act. The proposed wording is an improvement on what was envisaged either by the Government or by Mary Mulligan at stage 2. I am therefore happy to support amendments 2 and 3, in the usual consensual manner.

Mary Mulligan: I am happy that we have such consensus so early in the morning. I welcome the minister's comments.

Amendment 2 agreed to.

Section 3—Court powers in action for possession of residential property

Amendment 3 moved—[Mary Mulligan]—and agreed to.

Section 11—Power in relation to debtor's family home

The Presiding Officer: Group 2 is on family homes included in trust deeds. Amendment 1, in the name of the minister, is the only amendment in the group.

The Minister for Community Safety (Fergus Ewing): Amendment 1 is a technical one that will make a minor clarification for the operation of the amended section 40 of the Bankruptcy (Scotland) Act 1985 in relation to trust deeds. Section 11 of the bill will amend section 40 of the 1985 act so that its protections, which currently apply to sequestrations, are extended to apply to trust deeds. Section 11 ensures that a trustee under a trust deed must, when wishing to sell the family home, seek the relevant consent or authority of the sheriff, just as a trustee in sequestration must do so. The section will also ensure that the sheriff must take into account the same factors with trust deeds as he must in sequestrations.

The term “family home” is defined in section 40(4) of the 1985 act as meaning property in which there was an interest at a defined “relevant date”. Amendment 1 adapts the “relevant date”

definition to include reference to trust deeds. Without the amendment, the definition of “relevant date” in the 1985 act would make no reference to trust deeds. The amendment avoids any uncertainty by clarifying in the 1985 act that, for the purposes of trust deeds under section 40, a debtor’s family home is a home in which he had an interest the day before his trust deed was granted.

I move amendment 1.

Amendment 1 agreed to.

The Presiding Officer: That ends consideration of amendments.

Home Owner and Debtor Protection (Scotland) Bill

The Presiding Officer (Alex Fergusson): The next item of business is a debate on motion S3M-5650, in the name of Alex Neil, on the Home Owner and Debtor Protection (Scotland) Bill. Before I invite the minister to open the debate, I call on Nicola Sturgeon, as a cabinet secretary, to signify Crown consent to the bill.

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): For the purposes of rule 9.11 of the standing orders of the Scottish Parliament, I advise the Parliament that Her Majesty, having been informed of the purport of the Home Owner and Debtor Protection (Scotland) Bill, has consented to place her prerogative and interests, in so far as they are affected by the bill, at the disposal of the Parliament, for the purposes of the bill.

The Presiding Officer: Thank you. I call Alex Neil to speak to and move the motion in his name.

09:25

The Minister for Housing and Communities (Alex Neil): I am glad to open the stage 3 debate on the Home Owner and Debtor Protection (Scotland) Bill.

I pay tribute to the work of the Local Government and Communities Committee under the convenership of Duncan McNeil. The committee considered the bill in a diligent, thorough and constructive manner at stages 1 and 2. It is to the committee’s great credit that we were able to move from the bill’s introduction in October to completion of stage 2 before the end of January. I pay tribute in particular to the work of the clerks to the committee, who were extremely helpful and co-operative.

It is almost a year to the day since the repossessions group, which was ably chaired by Adrian Stalker, first met. I record again my appreciation of the group’s role in recommending the ways in which legislative protection for home owners needed to be strengthened. The debt action forum is also to be commended for its role in shaping part 2 of the bill. The policy development and passage of this small but complex bill has been relatively swift, but the bill has certainly been subject to appropriate testing and scrutiny.

Although the key principles of the bill were widely shared and have not been altered, we listened carefully to committee members’ views and were happy to make a number of amendments to the bill on points of detail, notably

in section 1, on voluntary surrender, in section 6, on recall arrangements, in section 7, on lay representation, in section 9, on certificates for sequestration, and in section 10, on trust deeds. Our acceptance this morning of amendments 2 and 3, in the name of Mary Mulligan, is further evidence of our willingness to listen and adjust when it is right to do so.

We could not address some issues that members raised. For example, although we supported the spirit of Bob Doris's amendments, which sought to protect people from liability for their lender's legal expenses when the lender had not complied with pre-action requirements, it is regrettable that the matter is—at the moment—reserved to the United Kingdom Parliament. For that reason alone we could not support Bob Doris's amendments. However, as I promised to do at stage 2—this Government keeps its promises—I have written to Lord Myners to ask the UK Government to address the issue, and copies of my letter are available from the Scottish Parliament information centre. [*Interruption.*] The debate had become a bit too consensual, Presiding Officer.

I am also grateful to Bob Doris for raising an important point about voluntary surrender. We responded to concerns that a formal affidavit was too onerous, but Bob Doris also sought the creation of a set of guidelines, to enable borrowers to be clear about what they are doing. As I said to the committee, it will be for the lender to decide how that will work in practice; that is not an issue for the bill. However, I reassure Bob Doris and other members that it is one of a number of issues that we will seek to address when we implement the bill, through consultation of all interested parties. I also assure the Parliament that we will keep the new legislation and funding for the advice sector, courts and others under review, and we will come back to the Parliament, if that is required, to ensure that the provisions work as the Parliament intended or to correct deficiencies.

Pauline McNeill did us a service when she drew the Parliament's attention to a serious issue. Fergus Ewing explained that although we could not have supported the amendment in her name, we are happy to engage with her and other members to get to the root of the issue and to consider what steps can be taken to improve the transparency and scrutiny of insolvency practitioners' fees.

Not just members but key stakeholders were influential throughout the passage of the bill. I commend stakeholders for their on-going support, consultation and input. In particular, I thank Citizens Advice Scotland, Money Advice Scotland, the Council of Mortgage Lenders—it says "moneylenders" in my notes—Shelter Scotland

and the Scottish Association of Law Centres for their willingness to engage constructively, and for the work that they do to avoid repossessions and to help people who are struggling with debt. The insolvency profession and the Law Society of Scotland also engaged fully. Stakeholders did not always get their own way, but the process of consultation was extremely valuable in securing a better balance between protection for lenders and debtors and ensuring that we produced workable legislation.

I remind members of the circumstances that prompted us to introduce the bill. One of the most significant consequences of the economic recession, especially during the past year or so, is that too many Scots are caught in a debt trap, which puts family homes—and families—at risk. Our response, which is embodied in the bill, has been to act quickly to legislate, well ahead of our colleagues south of the border, to introduce more protection for home owners, not just in these difficult times but for the longer term, and to offer support to people who currently cannot access debt solutions.

As members know, the pressing need for legislation has been a focus during previous debates, but it is worth restating why the bill is so important. Home repossessions in the UK increased fivefold from 8,000 in 2004 to 40,000 in 2008, and the Council of Mortgage Lenders has forecast a further rise to 53,000 this year. In November, the CML predicted that the number of families in the UK who have mortgage arrears that amount to more than 2.5 per cent of the balance would top 205,000 in 2010. The risks for such people will only intensify if unemployment or interest rates, or both, go on rising.

An issue on which all members agree is the need for more reliable statistics for Scotland. I had written yet again to the Council of Mortgage Lenders to ask for that information, but I regret that I received a reply in the negative yesterday. The CML's view is that issues to do with reporting the Scottish numbers cannot be resolved unless action is taken by the regulators—in this case, the Financial Services Authority. That is a disappointing reply. Given that the FSA will be under new management from the summer, subject to the election result and its consequences, I will again approach the FSA and ask it to take appropriate action.

In relation to the need for legislation to protect home owners, the FSA said recently that

"firms were often too quick to take repossession action",

and that

"some firms explored very few forbearance options before taking legal action against borrowers. We observed these poor practices across the mortgage market".

Not only in the Scottish Parliament but throughout the country, the bill is welcome and will make a material difference to many families and individuals who find themselves in the unenviable position of having too much debt and facing the prospect of repossession of their homes.

I am delighted to move,

That the Parliament agrees that the Home Owner and Debtor Protection (Scotland) Bill be passed.

09:34

Mary Mulligan (Linlithgow) (Lab): I thank the clerks to the Local Government and Communities Committee for their help and support during the passage of the bill. The bill is relatively short and succinct and bears no comparison by length with the Marine (Scotland) Bill, which the Parliament considered last week. However, it is a highly technical bill, and I am sure that members of the committee agree that the clerks were a great help in ensuring that we have understood its complexities. I also thank the bill team, particularly for their assistance with the amendments.

I remind members how we have arrived at this stage today. At the beginning of 2009, Cathy Jamieson and other members of the Scottish Parliament—including Ross Finnie and Robin Harper, who are in the chamber—realised that the number of people at risk of having their homes repossessed due to mortgage arrears was increasing and, crucially, that people in Scotland did not have the same protections as people in England and Wales, where a pre-action protocol was in place that ensures that certain procedures are carried out before a court can grant a repossession decree.

Cathy Jamieson and others suggested that the same protection should be available to people in Scotland but, unfortunately, the Cabinet Secretary for Health and Wellbeing, Nicola Sturgeon, first said that it was not necessary and then, after significant pressure from many—including Mike Dailly of the Govan Law Centre, who experienced the deficiency daily in his professional role—decided to delay further by setting up the repossessions sub-group of the debt action forum. That should at least have ensured that potential legislation would be fully developed. However, the committee was concerned that many witnesses who gave evidence at stage 1 raised concerns about the consultation process. That concerned the committee enough for it to say in its stage 1 report that “on balance” the consultation on part 1 was sufficient, but on part 2 it was not. Indeed, committee members were unsure why part 2 was included in the bill, so it is to the credit of committee members that there is a bill here today to consider.

I acknowledge and welcome the fact that when the two ministers—Mr Neil and Mr Ewing—saw the committee’s concerns, they listened and made efforts to respond to them. However, we should not have been in that position in the first place. I hope that lessons have been learned and that it is recognised, in particular, that there are still debt issues to address.

The bill is principally, as the minister said, about offering protection to those who are at risk of losing their homes due to debt, so I will highlight a few of the main points of the bill that will contribute to that aim.

Part 1 introduces the pre-action court protocols that were sought. I acknowledge that their legislative status means that they have more weight than their English counterparts, but I also contend that it may have been possible to achieve the same results through amendments to the Mortgage Rights (Scotland) Act 2001. That might have been a quicker route. How many people have been faced with repossession without the support that the bill provides?

The second most important aspect of part 1 is the provisions that will enable lay representation in repossession cases. Although that is to be welcomed, as organisations such as Citizens Advice Scotland, Money Advice Scotland and Shelter say, there is some concern about how well resourced they are to deliver the service. The committee convener, Duncan McNeil, pursued the issue with witnesses, including the minister, Alex Neil, and received some reassurance, but I agree with Mr McNeil that the matter needs to be kept under review.

In part 2, sections 9 and 10 provided further provisions in relation to a certificate for sequestration and the removal of the family home from trust deeds, both of which have proved—I am sure the ministers would agree—quite controversial. It is clear to everyone that those sections would have benefited from more detailed consultation before the introduction of the bill. However, I believe that the committee was right to be pragmatic and to recognise that the measures could offer assistance to certain people. I am grateful to Citizens Advice Scotland for the examples that it provided to demonstrate that; Labour will support the measures today.

There have been concerns about the bill delivering the protections that were sought without bringing about unintended consequences that would do more harm than good. The nature of the bill process is that there is detailed analysis and amendment, but that was particularly so in this case.

As I said, there are still some concerns about the resourcing of lay representation. There are

also concerns, to which the minister referred this morning, about the ability of the courts to cope. More than ever, the regulations and guidance that are issued with the act will be critical in making it effective. Finally, it will be essential to ensure that the bill is working as soon as possible—I am sure that the minister will not delay further.

With these comments, I offer my and my party's support for the Home Owner and Debtor Protection (Scotland) Bill.

09:40

David McLetchie (Edinburgh Pentlands) (Con): For a measure that was fast-tracked procedurally by the Government without the usual public consultation, and which was regarded by the Labour Party as being so urgent that members were at one time exhorted to turn up during last year's summer recess to pass the bill, the reality of its progress through Parliament has turned out to be somewhat different.

Instead of a bill that focused exclusively on repossessions, building on legislation that was passed by the Parliament in the form of the Mortgage Rights (Scotland) Act 2001, we have been presented with a hybrid measure that contained contentious and extraneous provisions relating to personal bankruptcy, as set out in part 2.

The case for early action on repossessions arose from an alarming projection on the likely number of repossessions in 2009, which turned out to be way off the mark. It was founded on the belief that, without immediate reform of the law, thousands would be thrown out of their homes and on to the streets as a result of the actions of hard-hearted lenders who care only for money and not a jot for the welfare of families. As usual, that proved to be a gross caricature of the truth, which bore no relationship to the good practice of the overwhelming majority of lenders in this country. All the evidence that was taken on the bill demonstrated that customers who are in arrears with their mortgages are treated with sensitivity, both as a matter of corporate social responsibility and as a matter of sound commercial judgment, because it makes economic sense to assist people to stay in their homes and to ride out the recession rather than to lose money on loans that were secured over homes that were falling sharply in value and in which there was high negative equity.

However, as with many issues in politics, something had to be seen to be done, and when it turned out that there was a relatively minor difference in the law between England and Scotland, Labour was quick to demand that it be corrected and the Scottish National Party was

anxious not to be caught out. Accordingly, the measures in part 1 were invested with a political importance and significance that far outweighed their practical consequences.

As I said in the stage 1 debate, in part 1 we have changes that will make marginal improvements to the law, but will do little more than codify existing good practice. They will make little or no difference to the number of people whose homes are repossessed. For that, we will require a recovery from the Labour recession. All that is being done in part 1 is to require the courts to take a more proactive supervisory role in ensuring that all the options have been considered, in conjunction with the debtor, before a repossession order in favour of the lender is granted.

The areas that the committee's report identified as requiring amendment have been duly amended and further tidied up this morning. Therefore, as regards part 1 we can look back with a degree of modest satisfaction on a modest measure, because that is what it is. I will leave the exaggerated claims and counter-claims for Labour and the SNP to fight over.

The criticisms of the Government's handling of part 2 have been many, various and wholly justified. The Government is guilty of ignoring the recommendations of its own debt action forum, which called for fuller public consultation on personal insolvency and the family home. The Government has engaged in all manner of sophistry and double-talk to imply consensus where none exists and consultation where none took place. It has acted in bad faith and forfeited the good will of professional bodies that are involved in this aspect of the law. All of that is particularly true in relation to section 10. Moreover, in relation to section 9, an amendment was approved at stage 2 that removed the legal responsibility of the authorised person in certifying the entitlement of a debtor to relief from debt that comes from sequestration. We now have a situation in which bankruptcy is available on demand and certificates of sequestration are granted by people who take no legal responsibility to creditors for doing so.

The history of this Parliament in the field of debt has been a one-way street of reforms that make it easier for people to avoid paying their bills. Before we go any further beyond this bill, we should pause to think about the stage that we have reached. The credit system is the engine of our economy. As we have seen in spectacular fashion recently, the credit system is good only when sound loans are made to people who can afford to repay them. That is true of a small personal loan from a credit union and a mortgage of tens of thousands of pounds from a major bank. The

availability of credit is of the greatest importance to people on lower incomes. If we undermine the system and make credit more difficult or expensive to obtain because we make it easier for some people to avoid and default on paying their debts, we do our society and our economy as a whole a great disservice. In passing the bill, we should reflect on that.

09:45

Jim Tolson (Dunfermline West) (LD): I rise in support of the Home Owner and Debtor Protection (Scotland) Bill not only because I have listened to and agree with much of the evidence given to the lead committee, on which I sit, but because the bill will provide vital protection to people who are in serious debt and will allow them to remain in the home that they sought to purchase. It is vital that we minimise such stressful situations and help keep the family unit together.

We were pleased that, as a result of Opposition campaigning and pressure, which the Liberal Democrats led, the Scottish Government established the debt action forum and the repossessions sub-group. Both produced final reports, aspects of which have been taken forward in the bill. Feedback from Citizens Advice Scotland and others who gave evidence to the committee has demonstrated great support for the debt action forum and the repossessions group.

Concerns were rightly expressed about the unusually short consultation period, but that had to be balanced with the urgent need for reform.

Although we were happy to support the bill at stage 1, we had a number of concerns that we wanted to be addressed before the bill came back at stage 2, in particular about the recall of decree. We are pleased that the Government listened to our argument on that. We stressed at stage 1 and stage 2 that there should be an opportunity to make a second application for a recall of decree in certain circumstances and that the bill should be amended in that regard.

I thank the committee clerks and members of the committee who went through a great deal of detail in the bill. I thank Alex Neil and his officials for redrafting the bill as a result of the concerns that I raised in committee in relation to a spouse or partner of the debtor making a second application for a recall of decree where it is felt that the debtor may not be acting in the best interests of the family unit by allowing their home to be repossessed to pay off their debts. I believe that that provides a vital protection, which will both keep a family in its home and keep the family unit together at a time of great personal stress, giving people the best opportunity to recover from debt.

Insolvency practitioners voiced a number of concerns about measures in the bill that they believed might affect their livelihood, and creditors expressed concerns about the imbalance in some of the provisions, which they believe unfairly favour the debtor and may leave the system open to abuse.

Some of the key concerns have been addressed, within reason, by Government amendments that the committee agreed at stage 2 in order to have a more balanced and fair system.

Mr McLetchie pontificated at great length and sought to remove section 10 completely. However, as he well knows, many organisations that act on behalf of the debtor welcomed section 10 and the protection that it will provide to debtors. Given that he is never one to retire to the corner to lick his wounds, I am sure that Mr McLetchie will defend business interests to the max, even today at stage 3.

The fact that only three amendments were lodged at stage 3 is testament to the hard work of officials, members and outside groups, who have sought to ensure that the bill is not only robust and fair but brings real protection to people who are caught in the debt trap, which is often not of their own making.

09:49

Bob Doris (Glasgow) (SNP): I welcome the passage of the bill thus far and I very much hope that it will be passed at decision time.

I reiterate the thanks that have been given to the committee clerks, the bill team and the ministers involved. If there was ever a bill that had the fingerprints of the Parliament all over it, this is it. Where genuine concerns were raised, they were listened to and the bill has been shaped by the Parliament as it has gone through. That is the way that all legislation should go through this Parliament.

I will give some context to the bill. In 2004, the United Kingdom figure for repossessions was around 8,000. Despite the fact that the Council of Mortgage Lenders has revised the figure expected in the coming year down—I think to 48,000—in 2008 the figure was 40,000, which is still a huge increase in the number of repossessions over a four-year period.

I say to David McLetchie that just as Nero fiddled while Rome burned, if the Conservatives had their way, they would be sitting on their hands while vulnerable home owners had their homes repossessed. It is vital that we act, and the bill will ensure that we do.

There should be a Scottish figure for repossessions, but we have some data. We know

that there has been a 77 per cent hike in the number of mortgages that have been in arrears for three months or more, which shows that more people are getting into mortgage difficulty. We also know that between 2008 and 2009, courts in Scotland granted more repossessions—the figure rose from 67 to 75 per cent. There is an evidence base there. We also know that between December 2008 and December 2009, 21 per cent more actions to repossess were initiated in courts. The evidence is clear: we have to act.

That is why the Scottish Government has moved to introduce statutory pre-action requirements. I give credit to our neighbours in England who introduced the pre-action protocol. In looking at best practice elsewhere, we sought to improve on the pre-action protocol by putting pre-action requirements on a statutory footing. Perhaps the Government south of the border will look at putting its system on a statutory footing at some point, too.

Alex Neil: Just for the record, the consultation on the measures south of the border does not finish until the end of March, so there is no chance of legislation before the general election. Therefore, yet again, Scotland is well ahead of what is happening in the rest of the United Kingdom.

Bob Doris: I thank the minister for that information. I hope that whatever party gets in south of the border after the next election will look at best practice in Scotland and follow suit.

The minister raised issues about cost. The Scottish Government sought to put in the bill a provision that would ensure that sheriffs could award costs against lenders should they move to repossess via a court and that repossession fails. Shelter, Citizens Advice Scotland and Money Advice Scotland drew to my attention the fact that under the Conveyancing and Feudal Reform (Scotland) Act 1970—under the terms of standard conditions of security—it would be permissible for a mortgage lender to rack up thousands of pounds in legal fees while attempting to repossess a vulnerable person's home. Although a Scottish sheriff could say that it had failed to meet the statutory requirement to be reasonable in seeking a proper credit solution and could award costs against the mortgage company, under the same act, it is also permissible for the lender to introduce back-door charges, so the legal fee could be added directly to the debt of the vulnerable home owner. I find that unacceptable, which is why I worked with Shelter to lodge an amendment on that at stage 2.

However, I did not know at that point that that would impinge upon the regulation of financial services, which is outwith the terms of the Scotland Act 1998. I thank the minister for his

reassurance that he will work with me on that. He has written to Lord Myners to raise the point with him. It makes no difference to me whether the UK Government legislates to end those unfair back-door charges or whether it gives Scotland the power to do so. I just want to help vulnerable home owners and I hope that we can all unite around that. I will certainly write to Lord Myners, too.

I am absolutely delighted with one or two other aspects of the bill. I am delighted to see provision for lay representation in Scottish courts. The experts who have helped vulnerable home owners from the first point at which they access debt advice to the end point, when they face repossession of their homes—Shelter, Money Advice Scotland and Citizens Advice Scotland—are the very people who should be in court. I thank the minister for his reassurance about voluntary surrender and ask him to keep a weather eye on how that process works.

I am delighted that section 10 has remained intact. There is no compulsion whatever on anyone—the creditor or the borrower—to enter into a protected trust deed. The same situation applies in England. Let us ensure that section 10 stays in the bill. I am delighted with the minister's reassurances. Let us vote for the bill today.

09:55

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): I, too, add my thanks to the members and staff of the Local Government and Communities Committee who worked so hard to get the bill through the Parliament in the short space of time that they had to deal with it.

From some speeches in the chamber, people might think that the pressure to bring the bill was about party-political point scoring. I say to those members that I pursued the matter vigorously because of the scale of the problem. For example, in the Tesco car park in Auchinleck, a woman stopped me only to break down in tears as she told me that her house was about to be repossessed—she did not know where to turn to get advice; a businessman came to my office in Cumnock and was in tears as he told me of the pressures on him—his worry was that he would lose his home; a couple came to my surgery in Maybole to seek help in exactly the same kind of circumstances; and there was also the woman who e-mailed me at midnight, desperate for advice about where to go. That is what the bill is about.

The bill is about putting in place the right legislation to ensure that every possible step is taken before people are put through the courts and out on to the streets. The bill is also about ensuring that we do everything possible to

intervene early in getting advice and information to the people who need it. I support the bill and I will, of course, vote for it at decision time.

When I, along with members of other political parties who were keen to see something done, raised the issues that I have just outlined, we were told, "We hear what you are saying. We will get a bill through and we will do it as quickly as possible." Alex Neil's speech would have led anyone to think that that happened; unfortunately, it was not the case. More than a year ago, Labour, the Liberal Democrats and the Greens raised the issue on a cross-party basis and with the support of Margo MacDonald. At the time, the Cabinet Secretary for Health and Wellbeing's response was that the measure was not needed. As Mary Mulligan said, while the cabinet secretary was saying that, others at the front line were telling a different story. They were telling us that the measure was badly needed and that legislation should be taken forward.

Alex Neil: No matter whether or not her criticisms of the Government are valid, we are way ahead of the member's colleagues at Westminster, where she aspires to go in three months' time. Her colleagues do not even have a bill on the stocks. Indeed, they have not even finished the consultation. It will be another two months before they have done that.

Cathy Jamieson: I am glad that Alex Neil recognises that I may well be on my way to another place where I will, of course, pursue the issue as vigorously as I have done in this place.

I find it astonishing to hear him say that we are "way ahead". I accept that the bill will put us ahead, but that is only because Labour and other parties consistently pushed the Scottish Government to do something. As I said earlier, the cabinet secretary's initial position was that legislation was not needed.

I am always willing to work with anybody who has the best interests of our local communities at heart. I, for one, will not stand by and say nothing when people are being let down, and home owners were being let down. Thankfully, the cabinet secretary recognised that her initial judgment on the matter was wrong and did something about it. I wish that Alex Neil had a wee bit more grace about recognising that the issue was pushed forward on a cross-party basis.

Shelter Scotland and Citizens Advice Scotland welcomed the bill, albeit that Shelter pointed out that there is no room for complacency. In particular, it said—and I agree with Shelter—that the argument can be made for change, irrespective of the recession. It said that people would continue to require help and support after the recession eases.

In my area, we have a new pan-Ayrshire advice project. I was particularly pleased to attend the launch in Kilmarnock at which the cabinet secretary made a speech. That is exactly the kind of support that my constituents need. As I described at the outset, they need to know where to go to get help and legal advice and representation quickly and effectively—help that will mean that cases do not need to go to court. Concerns have been raised about additional burdens on the courts, but if the advice services work properly, my hope is that the courts will not have to deal with so many cases.

I regret that I have had to introduce a slightly sour note to the proceedings, but the bill was improved by the very good work of a parliamentary committee. That is what the Parliament is about and we should take credit for that. As I said, I will support the bill at decision time. I hope that the Scottish Government has the good grace at least to recognise that it brought the bill before the Parliament because of cross-party consensus.

10:00

John Wilson (Central Scotland) (SNP): I rise to support the Home Owner and Debtor Protection (Scotland) Bill. Members will be well aware of their constituents' problems in retaining their home, particularly in the current economic climate, and Cathy Jamieson portrayed them eloquently. I am glad that there is general agreement in the chamber on the need for measures to avoid home repossession wherever possible.

The main driver of the Scottish Government in bringing forward the bill was to offer greater protection to the home owner. Clearly, that is desirable, particularly given the economic backdrop to the debate. In practical terms, the bill aims to put into legislation in part 1 the recommendations of the repossessions group and in part 2 proposals in respect of bankruptcy. The bill aims to enhance debtors' rights under the Mortgage Rights (Scotland) Act 2001 by extending protection to people in all repossession cases that involve residential property.

The stage 1 debate saw recognition that agreement differed on the provisions in part 1 and part 2. During the bill's passage, a number of members said that the Council of Mortgage Lenders' figures on repossessions needed to be made available in Scotland. I was reassured when the Scottish Government said that it was endeavouring to pursue the matter by writing to the Council of Mortgage Lenders and the Financial Services Authority to get the figures for Scotland prepared and released. Like the minister, I express my disappointment at the Council of Mortgage Lenders' decision not to release the figures. Clearly, the Council of Mortgage Lenders

does not understand the role of Government and Parliament in dealing with housing issues in Scotland.

As I said in the debate on the bill back in December 2009, behind the repossession figures there is “a human price”. Significant issues remain with loans that are secured against the family home. Concern has been expressed that the process will be overly bureaucratic—lenders claimed as much. Secured creditors are concerned about the potential additional costs of raising repossession cases in the courts. However, financial lenders and institutions need to be aware of the wider demands of society. There is no point in simply talking about corporate social responsibility; they have to do some real work on that theme, particularly in relation to debt.

Importantly, the committee supported the principle of enshrining the pre-action requirements in legislation so that they would have legal force. The bill imposes a clear obligation to ensure that the lender has considered alternatives to repossession before it raises an action. The bill addresses some concerns that have been identified in England and Wales about the process of voluntary pre-action protocols where borrowers have limited redress to lenders. The overarching objective of the bill is clear and unambiguous protection for vulnerable home owners.

Part 2 is probably the most contentious aspect of the bill. One provision, the certificate for sequestration, aims to introduce a new route into bankruptcy that does not require a debtor to show insolvency. A debtor will be able to apply to an authorised person for a certificate, with which they can petition for bankruptcy. The Government acted on committee concerns that further information should be sought on the work that would be required of the Accountant in Bankruptcy and on its new role in the route into bankruptcy provisions. I welcome the fact that the minister acted on his commitment: amendment 43 at stage 2 leaves it open to insolvency practitioners to take on that work. It is worth noting that the Government said that it is committed to continued dialogue with the credit reference agencies on their concerns about the need for all necessary information to be included in the register of insolvencies.

I welcome the stage 3 debate and the key principles that are contained in the bill. I look forward to the bill being passed at decision time. I believe that it will have a positive effect in reducing the number of domestic repossessions in Scotland.

I put on record my thanks to all those who provided written and oral evidence during the stages of the bill. I also thank the clerks, SPICe, the ministers—Alex Neil and Fergus Ewing—and

my colleagues on the Local Government and Communities Committee. I trust that the chamber will pass the bill at 5 o'clock today.

10:05

Patricia Ferguson (Glasgow Maryhill) (Lab):

As other members have indicated, Parliament and, more important, people who live in fear of debt and its consequences have waited too long for this bill. Even at this late stage, there are one or two worrying areas in which there is a lack of certainty that the bill can or will deliver what the Scottish Government promises. Parliament has been ahead of Government in this case. A year ago, parties represented in the Parliament—the Labour Party, the Liberal Democrats and the Greens—along with Ms MacDonald urged the Government to take action.

Nevertheless, the bill is important. The work that the Local Government and Communities Committee has done has helped to clarify some, if not all, of the areas in which there were uncertainties. However, as a general rule, the Government should not come to a committee with legislation that is so unclear. There seems to have been a last-minute rush to address issues that might have been better dealt with in future legislation. I hope that the Government will learn from the experience and from the slight controversy that some of the proposed measures have provoked.

I hope that the Government will keep a watching brief on who can be permitted to exercise a second recall. I was pleased that the Government lodged amendments at stage 2 that meant that a second recall of decree could take place, but I am concerned that one category of residents may have been missed. At stage 2, some members of the Local Government and Communities Committee realised that adult children living with their parents might be penalised if they did not have the same right. With more young people living at home, partly because of the particular economic situation that the bill seeks to recognise, it would seem sensible for them to have some protection under law.

In spite of the Government's assertions, I am still not sure that the funding that is currently allocated will be sufficient to allow advice centres to bear the additional burdens that the bill will place on them. If we expect citizens advice and money advice centres to accept the additional work, to give it the priority that it deserves and to do so to the high standard that we and they would want, and if the Government believes that that is a key plank of its policy, surely we should take steps to ensure that the work is funded properly. I hope that ministers will monitor the situation and will act if there proves not to be enough money in circulation in

advice centres to provide the training, support and back-up that will undoubtedly be needed.

At stage 2, the Local Government and Communities Committee rejected amendments from Mr McLetchie that sought to remove section 10 from the bill. Many members had a little sympathy for Mr McLetchie's argument; however, they were willing to give the bill their support because they thought that, on balance, ministers had a point, albeit one that should have been better developed and discussed.

Mary Mulligan's stage 3 amendments on the issue of reasonableness make sense and ensure consistency in the tests that are used. In my view, the amendments themselves are entirely reasonable and build on stage 2 amendments that were discussed in committee. I am pleased that the chamber has agreed to the amendments today and that the Government saw fit to support them.

I thank the committee clerks for their hard work and usual diligent approach to their tasks. In particular, I thank those who gave evidence to the committee. This was a technical bill and the evidence that we received was often conflicting. It was to the credit of those giving evidence that they were able to put their case in such a comprehensive manner.

Finally, I thank Mr Neil for tempering his cheerful consensual approach in opening this morning with a little of his usual political bias. Anything else from Mr Neil would have been just too disconcerting at this time in the morning.

10:09

Ross Finnie (West of Scotland) (LD): As Cathy Jamieson pointed out, Liberal Democrats and I were happy to join her and the Labour Party, Patrick Harvie of the Greens and Margo MacDonald in raising this issue. I want to make clear, as Cathy Jamieson did, why we did so, as it is germane to some of the comments that David McLetchie made in his opening speech. We were concerned about instances that were being brought to our attention. We had believed that adequate protection was provided by the Mortgage Rights (Scotland) Act 2001, which the Parliament passed unanimously, but there was disturbing evidence that a number of people were being exploited in different financial circumstances.

My point is directed to Mr McLetchie, in particular. It was interesting that the Council of Mortgage Lenders took grave exception to the suggestion that something was wrong. I had to point out to it that I was not attacking the council or its members, which have acted in a responsible way. I was concerned that issues were being raised about a number of people who were not

necessarily members of the council, who dealt with matters in a different way and who were perfectly happy, in different economic circumstances, to exploit the weak and the vulnerable. Legislation must address the needs of the population as a whole, but frequently it must be passed to address the situation of the weak and the vulnerable. The bill does both, but I raised the issue to which it relates out of concern for the weak and the vulnerable.

Alex Neil: I reinforce the point that the member has just made. The Financial Services Authority has made available evidence about rogue lenders that illustrates why the bill is needed. Although the FSA was not called to give evidence to the Local Government and Communities Committee, we should take cognisance of the research that it has done.

Ross Finnie: I wholly agree with the minister. The fact that the FSA has evidence about rogue lenders may be one reason why the Conservative party proposes to abolish it. We will find that in its forthcoming—

David McLetchie: Will the member give way?

Ross Finnie: I will be delighted to hear Mr McLetchie speak about abolition of the FSA; I am sure that all members will be thrilled to listen to him.

David McLetchie: Would the member care to name one of the rogue lenders to whom he refers?

Ross Finnie: I am not prepared to do that, because the issue is directly associated with particular constituents and I am not about to give anyone the opportunity to pursue them. It is necessary only to track down where someone lives—who and where they are—to start to do that, and I do not intend to provide that information. However, rogue lenders, rather than the people to whom Mr McLetchie referred, were the cause of concern.

We were glad that the repossessions group and the debt action group were established. At the time, it was felt that there was a need for speed. I thought that it would be good if something straightforward could be done over a year ago to amend the law. However, this is a complex body of law, so we opposed moves to rush the bill through Parliament. That would have been a grave mistake. We are a unicameral Parliament and it is vital that we observe all our current protocols when passing legislation. To that extent, I agree with David McLetchie. Given that we are a unicameral Parliament, it is not excusable for us to ignore consultation and proper evidence taking.

We wholly support the bill—which enshrines pre-action protocols, gives lay representation, removes the family home from trust deeds and

provides for action for the recall of decrees—and believe that it will make a valuable contribution not just to the population as a whole but to the weak and the vulnerable, in particular.

10:14

Jamie McGrigor (Highlands and Islands) (Con): I am pleased to be able to make a short contribution for the Scottish Conservatives in summing up the stage 3 debate. Like others, I pay tribute to the members of the Local Government and Communities Committee, including my good friend David McLetchie, for the excellent work that they have done on the bill, including the stage 1 report that informed our stage 1 debate and the improvements at stage 2, which effectively clarified and simplified elements of the bill. I thank organisations such as Citizens Advice Scotland, which provided useful briefings to me at this stage and previous stages in the legislative process.

As David McLetchie indicated, the Scottish Conservatives will vote to pass the bill today. David has already dealt with some of the points of detail in the stage 3 amendments, having himself helped to improve the bill at the committee stage. In general terms, we believe that it is appropriate that existing good practice in the area of repossessions is codified and that previous legislation is built upon. It is right that repossession pre-action is put into statute.

One issue that I identified during my contribution in the stage 1 debate, as others did in their contributions, was the widespread concern about the lack of Scotland-specific data on the number of repossessions. Since we are looking for that situation to be addressed, I am disappointed that the minister has not come up with that very important data. Will he make amends for that at some point?

Alex Neil: Had I access to the data, I would undoubtedly publish them. I do not have access to the data, but I would welcome a commitment from the Conservatives that, if they win the general election, within 24 hours they will order the FSA to publish the data.

Jamie McGrigor: I thought that the minister said earlier that we were going to abolish the FSA, and I would have thought that the SNP might be able to come up with data about Scotland.

Cathy Jamieson had some very poignant examples of repossessions, which we all want to see the end of. Unfortunately, as David McLetchie said, it will require a Conservative-led recovery from Labour's recession for something to be done about the economic plight in which people find themselves. I hope that the bill will help improve the current legislative framework and boost the

rights of under-pressure home owners in the short term and in the future.

10:17

Mary Mulligan: This has been a consensual debate, apart from some contributions, although I suspect that the only person with whom I would take issue is Mr McLetchie. There is a need for the bill and a need for speed. I acknowledge that the repossession figures are lower than we anticipated, but any repossession case deserves our full consideration, so it is important to progress the bill.

David McLetchie: Accepting that it is necessary to take matters forward, the member said that there was a need for speed. Does she acknowledge that, in fact, that is precisely what we did not get from the Government, because of its failure to focus on the primary issue in part 1?

Mary Mulligan: If the member had listened to my opening statement, he would have heard me say that I regret the fact that there was delay at the beginning. The committee tried to speed up the process and I welcome committee members' contributions to that.

At stage 2 and, indeed, at stage 3 today, members raised the issue of the situation in which expenses are awarded against the debtor, even when an action for repossession is unsuccessful. I think that all committee members recognise the injustice of that, as does Shelter. The minister, while sympathetic, suggested that the situation strayed into reserved issues. I note that the minister has now written to Lord Myners at Her Majesty's Treasury expressing our concerns and asking for his view. I understand that we cannot legislate on a reserved matter, but it strikes me as perverse how often this Scottish Government turns to Westminster to decide on issues such as this. I realise that the Scottish Government may be trying to make a point, but it is not helpful to have yet further delay.

Alex Neil: If we included a reserved matter in the bill, the danger is that we would be referred to the Supreme Court, which would mean that the bill would not be enacted for a considerable time. I do not think that any of us would want that to happen. I suggest to the member that the Local Government and Communities Committee writes to Lord Myners to support the points that I have made to him and to request urgent action from the United Kingdom Government.

Mary Mulligan: The minister will be clear that I was not asking for a reserved matter to be included in the bill—I know the rules as well as he does. I am sure that the committee will consider his suggestion about writing to Lord Myners.

Patricia Ferguson referred earlier to another issue that was raised at stage 2, which was the definition of the “entitled resident” who would be eligible to apply for a recall. I thank the minister for responding in writing on the issue after stage 2. I understand why the bill uses the same definition as the Mortgage Rights (Scotland) Act 2001. However, with due regard to our earlier discussion on the need for consistency and to the points that Patricia Ferguson raised, there is a different situation now, after almost 10 years of the 2001 act, because more adult children live at home and contribute, if the parents are lucky, to a mortgage. That circumstance needs to be kept under review and I hope that the minister will do that.

I acknowledge that the minister has reconvened the repossession group to carry out further discussions with stakeholders on protection for unauthorised tenants. My colleague Hugh Henry first raised that issue in the Parliament, and I welcome the minister’s serious consideration of it. I understand some of the difficulties in recognising an unauthorised tenant, but I am sure that committee members will be happy to consider any proposals in that regard during the passage of the Housing (Scotland) Bill. Obviously, the sooner proposals are made, the more properly we will be able to test them during the passage of the bill.

The minister referred in his opening statement to Pauline McNeill’s stage 2 amendments on the fees charged by insolvency practitioners. In fact, her examples showed that some fees were exorbitant. I know that the minister has given a commitment to look at that issue further, and we welcome that. I offer my support for the minister’s attempts to get figures on a Scotland-wide basis, because it is important to have such helpful figures.

The bill aims to offer additional protection to those in danger of repossession, but the minister will be aware that there is an equally difficult situation in relation to rent arrears. I hope that we will be able to have further discussion with the minister on that.

People across Scotland face repossession as we speak. The measures in the bill may help them, so enacting it as quickly as possible is critical. Regulations and guidance should be available as soon as possible. I am pleased to be able to offer my and the Labour Party’s support for the bill. I look forward to joining others later in the day to pass the bill.

10:23

The Minister for Community Safety (Fergus Ewing): I thank most sincerely the Local Government and Communities Committee, ably convened by Duncan McNeil, for its work in considering the bill, which was not without some

controversy. I also thank the Subordinate Legislation Committee, the Finance Committee and everyone involved in the debt action forum and the repossessions group, who gave their time freely and willingly. Finally, I thank the officials working for Mr Neil and me in both directorates, including the Accountant in Bankruptcy and her predecessor, for showing a commitment to their work for the ministers whom they support that was beyond the call of duty.

At times of economic hardship, people look to their Government for practical solutions. We believe that the bill that we will pass today offers just that. It is important to remember why the bill is so important and whom it is intended to help. Increasing numbers of people in Scotland are struggling with debt and facing the prospect of homelessness. We have been warned of further financial strain in the years ahead, with unemployment and interest rates expected to rise. Indeed, the most recent figures show a rise in unemployment in Scotland of 9,000 for the period September to November 2009. That is likely to put many more homeowners in the most serious financial difficulty, which they may have been able to avoid only temporarily due to reduced home loan costs.

Undoubtedly the most traumatic impact of debt is the harm that is caused to families, especially children, because of the stress and anxiety arising from the threat to the family home. That has been acknowledged by many members, including Mary Mulligan and Cathy Jamieson. We entirely support those sentiments and share the views that have been expressed. In my former life as a solicitor I had some experience of trying to help people stay in their homes and avoid unnecessary eviction during times of hardship. We must not underestimate the impact of the recession on Scots who are struggling to make ends meet.

As I have made clear throughout the passage of the bill, the Government agrees with the principle that those who can, should pay their debts. We entirely agree with that statement as it was expounded by Mr McLetchie. We also believe that the rights of creditors must be balanced with humane debt solutions that are proportionate to the impact of debt on families and the wider community.

The impact of debt on individuals can be most severe. It can exacerbate problems and can lead to addiction, the breaking up of families, depression and have all sorts of horrendous consequences that all members will be aware of from seeking to assist their constituents. The Home Owner and Debtor Protection (Scotland) Bill offers those people more help and I am delighted that it is likely to receive cross-party, indeed all-party, support today.

The bill widens access to the debt relief of bankruptcy. That is not a first choice, however—it is not like picking a bag of sweets from a supermarket—it is a last resort, and a serious step. It is not something that people enter into lightly or are advised to enter into lightly. That said, as representatives of citizens advice bureaux in particular have emphasised, section 9 will provide to a large number of people an option that is presently denied to them. Those people are stuck. They are in limbo. They do not have access to debt relief. The bill will change that, and I am very pleased that that measure will be supported.

Section 10 involved some controversy. I thank all the stakeholders with whom I worked on the matter: those who supported the measure, such as CABx and Money Advice Scotland; and those who had reservations about it, such as the representatives of the Institute of Chartered Accountants in Scotland with whom we engaged thoroughly and consistently, and whom I met just last week to discuss how to take these matters forward. We will continue to engage with those organisations in that work. We have listened to stakeholders throughout the process, and we have responded to the views that committee members expressed. I was pleased and gratified that the Local Government and Communities Committee responded in kind by accepting at stage 2 that we had a case—a strong case, I believe—and almost all the committee's members supported section 10.

I am in no doubt that the Home Owner and Debtor Protection (Scotland) Bill will prevent unnecessary eviction, that it will provide new debt solutions for many families throughout Scotland and that, with the contributions that have been made in the Parliament, it will be a worthy addition to the statute book.

In the stage 1 debate, I was compared to Bob the Builder and was asked, "Can you fix it?" My response then was:

"Yes, we can and, yes, we will."—[*Official Report*, 17 December 2009; c 22400.]

Today I can say with confidence: yes we have. I urge members to support the bill.

BBC Alba

The Deputy Presiding Officer (Alasdair Morgan): The next item of business is a debate on motion S3M-5720, in the name of Fiona Hyslop, on access to BBC Alba. If any member speaks in Gaelic and members wish to hear the interpretation, the headphones are available on members' desks. The interpretation is available on channel 1, which can be selected using the button to the right of the voting buttons on members' consoles.

10:29

The Minister for Culture and External Affairs (Fiona Hyslop): Madainn mhath is fàilte. I am very pleased to lead this debate on BBC Alba. Since its launch in September 2008, the channel has provided an essential service in supporting Gaelic heritage, identity and culture. It has clearly demonstrated that it deserves to be available to a wider audience, and I hope that everyone in the chamber will join me in supporting that position.

The Scottish National Party Government wishes to advance three key messages. First, we value and recognise the importance of the Gaelic language and Gaelic media. Secondly, BBC Alba has achieved much over the past 17 months. Thirdly, BBC Alba should be available on Freeview, and the BBC trustees should take that decision sooner rather than later.

The Scottish Government recognises Gaelic as an integral part of Scotland's heritage and its current cultural life. Our aim is to create a secure and sustainable future for Gaelic in Scotland. We are at a critical point in our support for Gaelic. There have been a number of important campaigns over recent years, which have led to important structures being put in place. We now have a Gaelic education sector, a Gaelic bòrd, a Gaelic act—the Gaelic Language (Scotland) Act 2005—and much more. It is crucial that we use those structures effectively to increase the use and learning of Gaelic throughout Scotland.

Today, our focus is on an essential support for the Gaelic language: BBC Alba. The Scottish Government believes that Gaelic media, consisting of radio, on-line delivery and television, is of critical importance for the future of the Gaelic language. Gaelic media have access to the home. Gaelic broadcasting appeals to young people. Gaelic programmes have the potential to support Gaelic language learning at every level. A Gaelic media industry supports artistic and technical skills and creates opportunities for Gaelic to be used in those contexts. Those opportunities are vital for the future of the language.

The importance of Gaelic media explains why there was such a long campaign for a Gaelic television channel before BBC Alba's launch in September 2008. The service has undoubtedly been a success and it is a welcome addition to Scottish broadcasting. It now has an average weekly reach of more than 220,000 adults. In Scotland, it has a higher approval score than BBC 2, BBC 3 and BBC 4. It has clearly demonstrated its ability to attract a wide range of people in Scotland as viewers of Gaelic television. We understand that, for every Gaelic speaker, BBC Alba has, since its launch, attracted at least three non-Gaelic speakers.

It is Gaelic speakers, of course, who use the channel most intensively. Research surveys conducted by the Lèirsinn research centre show that 70 per cent of Gaelic-speaking viewers who are able to receive the channel do so, and that their average viewing time is about six hours per week.

MG Alba supports new talent. In Inverness last week, for example, it hosted the FilmG awards, its awards ceremony for Gaelic short films. The awards attracted 54 entries in total, 23 of which were from young people. The awards exemplify the talent, creativity and enthusiasm of many young Gaelic speakers.

BBC Alba plays a vital role within the Scottish broadcasting industry. It spends about 75 per cent of its content budget on independent production companies in Scotland. It has created business models to enable the sustainability of the independent Gaelic TV production sector.

BBC Alba's impact would be even greater if it were more widely available. The reason for holding this debate now is that the BBC trust has recently been reviewing BBC Alba and consulting on whether it should be made available on Freeview. We expect a final decision to be made in March. It is important that, at this critical time, the Parliament speaks with one voice regarding our wish that BBC Alba be made available on Freeview. The Scottish Government's long-standing view is that it should be available on Freeview and all other relevant platforms, including cable.

We acknowledge the wider point about access that is made in Pauline McNeill's amendment. We made that view very clear to the BBC trust in our response to its consultation. At present, only 43 per cent of Scottish viewers have access to satellite services. There are therefore significant numbers of people who are being denied access to BBC Alba.

I agree with a point that I know that Iain Smith will stress. The choice with which we have been presented is not the ideal solution. Under BBC

management proposals, access to BBC Alba will be gained only at the expense of access to radio stations on the television. Although it is crucial for BBC Alba to be placed on Freeview as soon as possible, I urge the BBC to find a way to address the issues around the availability of radio stations.

Over the past 17 months, BBC Alba has clearly met the criteria that the BBC trust set in order to determine whether it should be available on Freeview.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): What is the Scottish Government's preferred multiplex when it comes to the availability of BBC Alba on Freeview? In other words, would it be available only to people who receive from a main transmitter, or would it also be available to those who receive from a relay transmitter? There is nothing in the Government's submission on that.

Fiona Hyslop: On numerous occasions, we have made the point to the United Kingdom Government that the availability of broadcasting—not just BBC Alba but other channels—is unsatisfactory in certain parts of the country, including the member's constituency, and that resolving that issue must be part of the overall solution.

The Government has demonstrated that the appeal of BBC Alba extends beyond its core audience of Gaelic speakers and learners. We recognise that BBC Alba has significant potential to support learners of the Gaelic language, regardless of which stage they are at.

BBC Alba is an essential part of the range of initiatives and programmes that are in place to support and promote the Gaelic language in Scotland. It is also an essential part of the Scottish broadcasting industry and plays a vital role in supporting the independent production sector in Scotland. Ted Brocklebank's amendment rightly stresses the importance of BBC Alba to those companies, as well as to its own employees. However, BBC Alba will achieve its full impact only if it is available to viewers across Scotland, so I urge colleagues to support the motion. Mòran taing.

I move,

That the Parliament welcomes the contribution made by BBC Alba to Scottish culture and the promotion of the Gaelic language since its launch in September 2008; believes that this contribution would be even greater if BBC Alba was available on a wider variety of broadcasting platforms, and urges the BBC Trust to decide to make BBC Alba available on Freeview following its recent consultation on this issue.

10:36

Pauline McNeill (Glasgow Kelvin) (Lab): We would all agree that by any standard or system of measurement, BBC Alba has been a phenomenal success since its launch a little over two years ago. Its success in securing audiences of more than 220,000 viewers a week is impressive, especially when we consider that the channel is available in only about a third of Scottish homes.

Labour has a strong interest in BBC Alba, given that we agreed to fund the channel in 2006, when we were in government, and we support the Scottish Government's motion, which seeks to persuade the BBC trust to extend the franchise to more viewers through Freeview.

I once said with great authority at a meeting about the Gaelic language that Partick in my constituency was home to the highest number of Gaels in Scotland and no one challenged me. Suffice it to say that that is not true, but I do have a local interest in the matter.

The situation has been wrong for some time. Given BBC Alba's importance as a Gaelic medium, it is unjust that thousands of people cannot access it on Freeview. BBC Alba is the only general entertainment channel to be wholly managed and broadcast from Scotland, and 95 per cent of its content is provided by Scotland-based companies. Its carriage on Freeview has been the dominant issue for discussion over the past few years.

In the most recent debate on the subject, I said that if the BBC trust uses audience figures as a measure of the channel's success, it is quite ludicrous to exclude the 150,000-plus viewers who cannot be counted because they cannot see the channel, and I repeat that assertion. As the minister said, we have the opportunity to extend coverage from 40 to 83 per cent of the population. If BBC Alba were provided on cable, that figure would rise by a further 15 per cent. In its consultation, the BBC trust has received an impressive 5,000 responses on the issue of Freeview carriage for BBC Alba, which represents one written response from every 1,000 people who live in Scotland. That is a significant figure.

BBC Alba is good value. For every Gaelic speaker that it has reached since its launch, it has attracted a further three non-Gaelic speakers. That is a great achievement, particularly as we know that the British and the Scottish public are not known for their love of subtitles. In my opinion, the channel's diversity is the secret of its success. It offers a fantastic choice of interesting programmes. The traditional music awards showcase the incredible musicianship of home-grown talent, which I do not think has had anywhere near the amount of exposure that it

deserves. BBC Alba's coverage of the event has introduced non-Gaelic audiences to an amazing sector of our music industry. The channel has attracted a mainstream audience, and it should continue to do so. As I have said, if it were shown on Freeview, those benefits would extend to 83 per cent of the population, and the figure would be even higher if it were broadcast on cable.

The Gaelic content of BBC Alba, whether in its children's programmes, its documentaries or the fresh perspective that it has on the news, is unique and cannot be found anywhere else. However, the potential loss of access to digital and analogue radio stations through television is a concern to everyone, and I will address the Liberal Democrat amendment, which deals with that, later.

BBC Alba's purpose as a new channel is to help promote and sustain Gaelic language and culture as a key strand of Scotland's culture, which is an extension of what we agreed to in the Gaelic language plan. The channel makes one of the most notable and important contributions to that goal. Its approach to broadcasting has brought many economic benefits, as the minister said, including the continued growth of the Scottish broadcasting industry.

At Friday's broadcasting summit, which Fiona Hyslop chaired, we discussed the need to develop our capacity for production, given the economic benefits that flow from that. If we are to meet the BBC's target of producing 8 per cent of its programmes in Scotland—Channel 4 is lagging behind in that regard—BBC Alba will have a not insignificant role to play. At the summit, Anne Mensah, who looks after Scottish interests in London and who is passionate about commissioning programmes in Scotland, talked about the stiff competition that we face from elsewhere. BBC Alba's record is commendable. It has used 28 production companies, including four new ones, and has conducted training programmes and initiatives that have definitely contributed to the industry's overall capacity.

I am sure that, like me, many other members will have been written to by members of the Producers Alliance for Cinema and Television who are concerned about STV's application to change its status to that of an independent company. I hope that we all agree that any change in STV's status should not impact on the ability of Scotland's small independent sector to compete for a share of the increase in programming.

The Labour amendment addresses the dispute between the BBC and Virgin, which we hope will be resolved soon so that BBC Alba can be provided on cable. In my constituency in the west end of Glasgow, where it is not possible to get a satellite dish for conservation reasons, cable provision is extremely important. That is why we

lodged our amendment, which I hope will be supported. We urge the minister to work with the Secretary of State for Scotland to help achieve that.

Radio coverage, which is the subject of the Liberal amendment, is probably an issue for future debate. Radio is often tagged on to broadcasting discussions, but it is an important medium—although I notice that the figures suggest that the proportion of people who listen to radio does not seem to be as high in Scotland as it is in England; I do not know why that is. We want an alternative arrangement to be found for the radio stations concerned, particularly Radio 6, Radio 5 Live and the BBC Asian Network, which, under the BBC's proposals, people will not be able to access if they do not have access to a digital radio. We need to identify the small number of listeners who would be affected. The BBC trust is duty bound to do that during the consultation. We do not want to break the consensus—we agree with the minister that we must move forward in a consensual way—but I want it to be confirmed that the Liberal Democrat amendment is not saying that we should not proceed with the extension of Freeview if the problem with radio cannot be resolved. I hope that the answer to that is in the affirmative.

The Labour Party supports the motion. I move amendment S3M-5720.2, to insert after "platforms":

"and therefore calls on the BBC management and Virgin Media to resolve the ongoing dispute regarding carrying BBC channels on the cable network to ensure the widest possible access to BBC Alba".

10:42

Ted Brocklebank (Mid Scotland and Fife) (Con): In recent weeks, I have watched two outstanding films on BBC Alba. One was about the Gaelic poet, Sorley MacLean; the other was about the Gaelic writer and comedian, Norman Maclean, and his lifelong battle with alcoholism. Both were beautifully crafted and bore comparison with anything that I have seen on BBC Scotland or STV over the same period.

Of course, not everyone wants to learn about Gaelic poets or alcoholic comedians, and BBC Alba now does its own gardening and cookery shows, and there is plenty of coverage of music, religion, sport, as well as in-depth interviews and kids' shows—in fact, all the things that one would find on a normal channel. We can all understand the shows because they are subtitled in English, but they have the advantage of being produced in the Gàidhealtachd and in Gaelic, which means that as well as being entertained and informed, those who do not speak Scotland's oldest language have a genuine opportunity to begin learning it.

There are around 60,000 Gaelic speakers left in Scotland and that is widely regarded to be the lowest level at which it is possible to sustain a language. The number of Maori speakers in New Zealand had dropped to half that figure—30,000—until a new Maori TV channel was made available to all. Now the number of fluent speakers of Maori has risen to about 136,000, and most of the country's 650,000 Maoris have a smattering of the language.

Of course BBC Alba should be available on Freeview, not only to secure an even wider viewership, but to give a sense of security to those who have worked so hard to make the new channel a success. Why should access to the channel be denied to all except people who can afford to subscribe to Sky? I cannot tell members how impressed I was with the quality of the personnel I met working for the company, both at its headquarters in Stornoway and at its studios at Sabhal Mòr Ostaig in Skye.

As we have heard, 75 per cent of BBC Alba's programmes come from independent companies. It has now commissioned shows from some 30 production companies, which are mostly based in the heartlands. Those companies include four new starts. It was heartwarming for a former broadcaster to see young people with well-paid jobs producing excellent television from a part of the world that has sent many splendid broadcasters, including virtually all the current top brass at BBC Scotland, to the mainland over the years.

Conservatives have always supported Gaelic. Members do not have to take my word for that. The *West Highland Free Press* and its founder, Brian Wilson, are hardly natural Tory supporters, but that former Labour minister said in a recent editorial:

"The Tories have a pretty good record on support for Gaelic. George Younger gave crucial backing to Gaelic-medium schools and Malcolm Rifkind set up the Gaelic Broadcasting Fund."

Brian Wilson was responding to a somewhat ill-judged attack by Alasdair Allan, who had claimed that the Tories' Westminster broadcasting spokesman, Jeremy Hunt, was going to abolish BBC Alba. BBC Alba is largely funded by the Scottish Parliament, so it is difficult to see how Jeremy Hunt could have done that, even if he had wanted to. I am delighted to inform members that he does not want to do that.

As the current affairs chief who introduced Scotland's first Gaelic news bulletins on Grampian TV years ago, I hope that I am not being too immodest if I complete the quote from Brian Wilson's editorial. Referring to Alasdair Allan and the SNP, he wrote:

“When he and his crew have done as much for the status of Gaelic and Gaelic broadcasting as Younger, Rifkind and Brocklebank, then they too will win the approval of this column without regard to wider political differences.”

I know that there are many members from all parties in the Parliament whose support for Gaelic and BBC Alba runs deep—I include the minister and Alasdair Allan among them—but the simple fact is that BBC Alba would not have happened if the Tories had not pioneered and then fought to safeguard the Gaelic broadcasting fund in the 1980s. That money has now matured into the £12 million that the Government annually contributes to BBC Alba’s budget. I look forward to the channel winning its rightful place on Freeview and going from strength to strength.

The Conservative party supports the Government motion and the Labour and Liberal Democrat amendments, and commends the amendment in my name. Mòran taing.

I move amendment S3M-5720.1, to insert after “2008”:

“; believes that BBC Alba’s growing viewership, along with the direct employees and the independent broadcasters working for the channel, requires assurances about its long-term economic and cultural future”.

10:48

Iain Smith (North East Fife) (LD): I am pleased to contribute to this short debate on the future of BBC Alba.

There is no question but that BBC Alba has exceeded all expectations since it was launched in September 2008. It is already making an extremely valuable contribution to the development and sustainability of independent producers in rural Scotland in particular, increasing the diversity of that important sector of the Scottish economy. Despite its availability being limited to Sky and Freesat, it has attracted a weekly reach of up to 5 per cent of Scottish viewers, helped in no small part by its shrewd decision to broadcast live football and other sports. Some may criticise that emphasis on sports broadcasting rather than on pure Gaelic programmes, but it is clearly an effective way of drawing in a non-Gaelic speaking audience. We should not forget the role that Bob the Builder—not Mr Ewing, I hasten to add—played in the success of S4C. In any event, BBC Alba’s Gaelic programmes, not least its news, current affairs and community information programmes, have a weekly audience of more than 70 per cent of the Gaelic speakers and learners who are able to receive the channel.

The debate is about who is able to receive the channel. There is and always has been cross-party support in the chamber for BBC Alba being

available on digital terrestrial television, or Freeview, at the earliest opportunity. It is simply not acceptable that the channel is available only to those who have access to satellite-based platforms. That is not the case for S4C in Wales, and it will not be the case for the Irish language channel TG4, which will be available on Freeview in Northern Ireland following the digital switchover. Scots Gaelic should be on an equal footing with Irish Gaelic and Welsh, and BBC Alba, as the primary Gaelic language channel, should be available as a main channel on Freeview in Scotland.

I welcome the BBC trust’s consultation on the issue, but the options that it offered in its consultation paper were unacceptable. I simply do not accept that the only way to provide BBC Alba on Freeview is to take down another BBC service. That has not happened for S4C in Wales, and it will not happen for TG4 in Northern Ireland, so why is it necessary for BBC Alba in Scotland? Providing three unacceptable options involving red button services, BBC Parliament or BBC Radio and asking us to accept the least worst of those options is simply not good enough.

Dave Thompson (Highlands and Islands) (SNP): The Liberal Democrat amendment is fine in principle, and I agree with it, but it would require the purchase of space on another spectrum at colossal cost. Is there not a risk that that huge cost could be used as an excuse not to extend BBC Alba on to Freeview?

Iain Smith: I do not accept that argument. That has not happened in Wales and it will not happen in Northern Ireland. There is space on the spectrum for BBC Alba; it is simply a case of making that space available.

As a point of principle, wherever they are in the United Kingdom, licence payers should be entitled to the same access to the BBC services that they fund. Why is the BBC proposing a form of digital apartheid? Why should listeners in Scotland be denied access to BBC radio stations via Freeview? For many people, there is no other way to access digital-only radio services such as the Asian Network, 1Xtra, 5 Live Sports Extra and Radio 6 and Radio 7, as they have no DAB radio signal and have limited broadband speeds. After analogue radio is switched off in 2015, they will also be denied access to Radio 1 to Radio 4, Radio Scotland and even Radio nan Gaidheal.

Digital exclusion does not affect only people in the most remote communities; it even affects fairly large towns and villages in the central belt. In my constituency, DAB signals are limited, broadband speed is restricted, and many will receive Freeview lite after switchover. That will deny them access to many of the services that are available to others, despite their paying the same licence

fee and the digital levy. I am sure that my colleague Jeremy Purvis will speak more about that later.

It is time for the buck passing to stop. The UK Government must step up to the mark and tell all those responsible for digital switchover that they must upgrade all relay transmitters to provide a full Freeview service. There are other ways to provide BBC Alba on Freeview now without excluding residents of Scotland from BBC services that they pay for. The answer may lie with our old friend the seventh mux. Whatever the solution is, the BBC trust must be told to find it.

I move amendment S3M-5720.3, to insert at end:

“however the removal of existing BBC radio stations from the digital terrestrial TV platform in Scotland should not have to be a consideration in that decision; further believes that all Scottish residents should have access to the full range of broadcasting following digital switchover, and calls on the UK Government to require that all relay transmitters in Scotland are capable of transmitting the full range of Freeview channels by the 2010 and 2011 launch dates.”

10:51

Alasdair Allan (Western Isles) (SNP): Thairis air na pàrtaidhean, agus ann an Alba air fad, bha daoine a’ toirt fàilte air BBC Alba nuair a thòisich e o chionn bliadhna gu leth. A-nis, tha e inntinneach fhaicinn dè cho dìleas ‘s a tha na daoine a tha a’ coimhead air BBC Alba a’ fàs. Tha clann a-nis a’ fàs cleachdte ris an smuain gu bheil e àbhaisteach cartùnaichean a chluinntinn anns a’ Ghàidhlig. Tha daoine gun fhacal Gàidhlig a’ fàs cleachdte ris an smuain gu bheil e àbhaisteach a bhith a’ coimhead air ball-coise anns a’ Ghàidhlig no air prògraman mu nàdar ann an Afraga no ge b’ e càite. Ma tha sinn ag iarraidh aon rud ann an saoghal na Gàidhlig, ‘s e normalisation, mar a chanas iad, den t-seòrsa sin. Tha cànan sam bith gun telebhisean mì-àbhaisteach, agus cha bhi ùidh sam bith aig na daoine òga ann an cànan mì-àbhaisteach, ge b’ e cho innteanach ‘s a bhios i dha na h-anthropologists.

Tri fichead bliadhna air ais, bha cuid ann an Israel ag ràdh gun robh cànan nan sgrìobtar ro naomh airson prògraman còcaireachd air an rèidio agus a leithid. Anns an aon seòrsa dòigh, tha sinn air rathad fada a shiubhal bho na làithean nuair a bhiodh daoine a’ sgrìobhadh a-steach dha na pàipearan a ghearan gun robh Gàidhlig mìorbhaileach math aig a’ Mhòd ach nach robh i freagarrach airson prògraman còcaireachd. Gus a’ phuuing sin a dhearbhadh, bidh BBC Alba a’ bruidhinn rium fhèin an ath mhìos mu na recipes as fheàrr leam. Coimhead a-mach airson na fish fingers agus an Creamola Foam.

Mar a bha Ted Brocklebank a’ dèanamh soilleir, tha BBC Alba a’ tuigsinn gu bheil e fìor

chudromach gu bheil e a’ craoladh a h-uile seòrsa prògram, agus gu bheil iad tarraingeach dhan a h-uile seòrsa neach-coimhead. Ach bhiodh an obair sin tòrr na b’ fhasa nam biodh BBC Alba ri fhaicinn air Freeview. Chan eil mi a’ cantainn sin dìreach air sgàth ‘s nach b’ urrainn dhòmhsa BBC Alba fhaicinn ann an Leòdhas airson sia mìosan—bha mi a’ feitheamh ri Sky dish agus bha sreath a’ feitheamh còmhla rium. Chan eil mi eadhon a’ gearan dìreach air sgàth ‘s nach urrainn dhomh fhathast an t-sianal fhaicinn anns a’ Phàrlamaid, a tha a’ cleachdadh càbal; ach is sin sgeul eile, ged a bha Pauline NicNèill a’ bruidhinn mu dheidhinn anns an òraid aice. Nam biodh BBC Alba ri fhaicinn saor is an-asgaidh leis na sianalan Freeview eile, bhiodh sin a’ toirt misneachd mhòr gu craoladh tro mheadhan na Gàidhlig. Mar sin, bhiodh barrachd taighean ann far am biodh daoine ag èisteachd ris, ag ionnsachadh agus a’ fàs eòlach air a’ Ghàidhlig. Bhiodh beagan fois aig Urras a’ BhBC cuideachd.

Nach eil e neònach gur ann le Westminster fhathast a tha an smachd air craoladh na Gàidhlig? Ach sin mar a tha cùisean fhathast.

Bidh 220,000 neach a’ coimhead air BBC Alba gach seachdain mar-thà. Cia mhead eile a bhiodh a’ coimhead air, nam biodh e ri fhaotainn air Freeview? Ma bhios an t-urras a’ gearradh sianalan rèidio a-mach à Freeview airson beàrn a dhèanamh airson BBC Alba, tha mi an dòchas gum bi e a’ mìneachadh carson, agus nach bi an t-urras a’ leigeil le sabaid gun phuuing a bhith a’ fàs anns an *Daily Mail* mun ghnòthach.

Tha mi a’ tuigsinn a’ phuuing a bha Iain Mac a’ Ghobhainn a’ dèanamh mu dheidhinn a’ chuspair seo, ach tha e cudromach aig an aon àm a bhith a’ mìneachadh gum biodh na sianalan eile sin ri fhaotainn fhathast air-loidhne agus air an rèidio fhèin. Chan fhaodadh mòran ge-tà—air a’ Ghàidhealtachd co-dhiù—prògraman fhaicinn air loidhne.

Following is the simultaneous interpretation:

People welcomed BBC Alba across party lines and throughout Scotland when it began to broadcast a year and a half ago. It is interesting to see the growth in loyalty of BBC Alba viewers. Children are now accustomed to the view that it is normal to hear cartoons in Gaelic, and people who are without a word of Gaelic are getting accustomed to the view that it is normal to see football or nature programmes about Africa or other areas in Gaelic. If there is anything that we in the Gaelic world want, it is normalisation of that kind. Any language without television is unusual. Youths have no interest in an unusual language, no matter how interesting it may be to anthropologists.

Sixty years ago, some people in Israel said that the language of scripture was too sacred to be used for cookery programmes on the radio and the like. We have travelled down a long road since the days when people used to write to the newspapers to complain that, although wonderfully good Gaelic could be heard at the Mod, it was not suitable for use in cookery programmes. In order to prove that point, BBC Alba will speak to me next month about my favourite recipes. Members should look out for fish fingers and Creamola Foam.

As Ted Brocklebank said, BBC Alba appreciates that it is vital for it to broadcast every kind of programme and for its programmes to be attractive to all viewers. However, its work would be much easier if it could be seen on Freeview. I am not saying that simply because I could not access BBC Alba in Lewis for six months. I was waiting for a Sky dish; several others were also waiting. I am not even complaining because I cannot access the channel in Parliament, which uses cable television, to which Pauline McNeill referred. If BBC Alba could be viewed at no cost with other Freeview channels, that would give tremendous encouragement to broadcasting through the medium of Gaelic. If that were the case, there would be more homes in which people could listen to, learn and become familiar with Gaelic, and the BBC trust would get a bit of peace.

Is it not strange that Westminster still has control of Gaelic broadcasting? However, that situation remains.

Already, 220,000 people watch BBC Alba every week, but how many more could watch it if it were available on Freeview? If the trust plans to remove radio channels from Freeview in order to make space for BBC Alba, I hope that it will explain why and that it will not let a needless fight about the issue arise in the *Daily Mail*.

I understand the point that Iain Smith made, but it is important to explain that those channels will still be available online and on the radio. Not many, especially in the Highlands, are able to view television programmes online.

Iain Smith: I made the point that many people do not get the required broadband speeds or a DAB signal, so they will not be able to receive those channels. Some people do not get a good analogue signal, either, so those radio channels are available to them only on Freeview.

Alasdair Allan: Chan eil mi ag argumaid an-aghaidh a' phuuing sin no an-aghaidh an leasachaidh aig Iain Mac a' Ghobhainn. Tha mi dìreach ag ràdh gum biodh e feumail nam biodh an deasbad mu dheidhinn a' chuspair reusanta agus gum bu chòir fios a bhith aig daoine gu bheil na sianalan sin ri fhaotainn air loidhne cuideachd.

Tha BBC Alba a' dèanamh a h-uile rud a bha Urras a' BhBC ag iarraidh. Tha ceum eile ri ghabhail a dhearbhadh ann an saoghal craolaidh gur e cànan àbhaisteach a tha anns a' Ghàidhlig ge-tà, agus 's e sin Freeview. Tha mi a' cantainn ri Urras a' BhBC, "Siuthadaibh, ma-thà."

Following is the simultaneous interpretation:

I am not arguing against the point that Iain Smith makes; I am just pointing out that it would be useful if the debate were reasonable and people knew that those channels are also available online.

BBC Alba is doing everything that the trust has asked it to do. There is another step to be taken in order to prove in the broadcasting world that Gaelic is a normal language: Freeview. I say to the BBC trust, "Go for it."

10:56

Peter Peacock (Highlands and Islands) (Lab):

I am pleased to take part in the debate. For me, it is unfinished business. When I was the minister with responsibility for Gaelic, I had some responsibility for the discussions and negotiations, and responsibility for some of the funding, in securing BBC Alba in the first place. At that time, Patricia Ferguson was the Minister for Tourism, Culture and Sport, and she played the biggest part by concluding the discussions on whether to establish a channel. I am pleased that we secured the channel, as it is making a big contribution to strengthening the normalisation of Gaelic in our society. The points that Alasdair Allan made about normalisation are extremely pertinent and important: normalisation is part of the function of the channel.

At peak, BBC Alba has had more than 600,000 viewers, although the average is about 220,000—5 per cent of the Scottish population. Its reach into the Highlands and Islands is something like 11 per cent, which is very impressive indeed. So viewing is not confined solely to Gaelic speakers, and the channel is not a Gaelic ghetto—a point that Ted Brocklebank ably made—but an active bridge between Gaelic and the many other cultures of our country. The fact that the viewing numbers are far greater than the current number of Gaelic speakers shows that non-Gaelic speakers are viewing and encountering Gaelic influences. I hope that their interest in the language and their support for this important part of our culture increase. Through BBC Alba, Gaelic is reaching out into English-speaking communities in an important way. That is happening because the channel is not parochial or introspective but reflects the culture of our Gaels, who are outward-looking, internationalist and multicultural in their perspectives.

The promising start that BBC Alba has made needs to be strengthened, however. People will testify that many Gaels living in their own communities cannot get the service for technical reasons. If the channel were provided through Freeview, the BBC estimates that that would attract a further 150,000 to 180,000 viewers—a significant number. Such a move would be important for the channel's development in the future. That would not just empower Gaelic speakers to view programmes in their own language and through the roots of their own culture, but enable non-Gaels to access that rich and important dimension to our national life. Without BBC Alba being available through Freeview and cable, there is a real danger of people continuing to be disfranchised in that way. The very communities that BBC Alba was primarily intended to reach would not be fully reached without that development, which we are all arguing for today.

I support the thrust of the Government's motion and our important amendment. I also support the Tory amendment. However, it is still unclear to me whether the Liberal Democrats are saying that Freeview should not be used to extend the reach of BBC Alba until the question of the radio channels is resolved. Perhaps they could clarify that.

Iain Smith: We are saying that the Parliament should send a clear message to the BBC trust that its present proposals are not what we want to see happen and that it needs to get its act together and come up with an alternative option, as soon as possible, to ensure that people in Scotland are not denied BBC services.

Peter Peacock: The Liberal Democrat position is still not 100 per cent clear to me. If they are saying—as I hope that they are—that they do not want to hold back BBC Alba until an answer is received on the radio channels but that they want to get that answer, I share that view. I, too, want an answer on that issue.

I trust that the BBC will accede to the application that has been made and the strong support for that application. However, as we have touched on, that will not happen without some difficulty. The spectrum that would be allocated—to which Iain Smith and others have referred—could mean that some people would lose their radio service. The reasons for that are technical, and there are normally technical answers to technical questions. I hope that the BBC can find those answers; I encourage the minister to work closely with the BBC and encourage it to find those answers, so that nobody is disfranchised in any respect because of this important development.

Gaelic remains in a very fragile state. The development of BBC Alba is just one way in which

we can strengthen and normalise a culture that, for so long, has been disadvantaged by a variety of mechanisms in our society. I strongly support the thrust of the debate and hope that we will quickly see the developments that we all want to see and that more people will be able to access this very important channel.

11:01

Dave Thompson (Highlands and Islands) (SNP): Tapadh leibhse, Oifigeir Riaghlaidh. Tha mi gu math toilichte pàirt a ghabhail anns an deasbad seo. Tha Freeview glè chudromach airson BBC Alba.

Following is the simultaneous interpretation:

Thank you, Presiding Officer. I am very happy to take part in the debate. Freeview is very important for BBC Alba.

The member continued in English.

I welcome this debate on access to BBC Alba, not least because I do not subscribe to satellite television and rely on Freeview for my TV viewing. That means that I have never seen BBC Alba, despite the fact that I am a keen Gaelic student who would like to watch it and whose Gaelic would benefit greatly from access to it. In that, I suppose, I must declare an interest.

BBC Alba is a great success, but at present it is available only to the 40 per cent of Scottish households that receive satellite TV. Freeview would make it available to nearly all others. Its current weekly reach is 4 to 5 per cent of viewers throughout Scotland and 11 per cent in the Highlands and Islands. It also has a high approval rating. Its availability on Freeview would probably double those figures and give the channel a huge boost.

Gaelic is an important part of Scotland's culture, heritage and identity, and it was once widely used all over Scotland. It has been discriminated against for a long time, however, and it has only relatively recently started to receive fair treatment. As Ted Brocklebank said—dare I say it, too?—the Tories at Westminster were instrumental in getting that going with the promotion of Gaelic-medium education in the 1980s, for which we must thank them. That continued with the Gaelic Language (Scotland) Act 2005, the bill for which was ably promoted by Peter Peacock, who has done a lot for Gaelic. It is all the more sad, therefore, that, at a time when the confidence of Gaelic speakers is beginning to grow, some people choose to attack and vilify Gaelic under the pretexts of disproportionate spending on a minority and the need for savings. Some councillors in the Highland region, of all places, have jumped on that misinformed populist bandwagon. Councillor

Crawford, of Inverness, and Councillor Rosie, of Caithness, spring to mind. That is despite the fact that Highland Council spends only a quarter of 1 per cent of its annual budget on Gaelic—well below what would be proportionate given the number of Gaelic speakers in its area.

The latest populist to jump on the bandwagon is Labour Councillor Deirdre Mackay, of East Sutherland and Edderton, who, as it happens, is the daughter of Councillor Rosie. She has obviously seen her dad hitting the headlines and wants some of the action. At a recent meeting, the Labour councillor criticised Government support for Gaelic and labelled the council's efforts to develop Gaelic education elitist. Bizarrely, she went on to say that she supported bilingual education, which could involve Spanish, Urdu or Chinese but not Gaelic. Are those languages cheaper? She also criticised the plans that were introduced by the previous Labour-Liberal Democrat Scottish Executive to support the promotion of the Gaelic language, despite the fact that she works for Peter Peacock, who, as I said, has done a lot for Gaelic and promoted the Gaelic Language (Scotland) Bill.

Ken Macintosh (Eastwood) (Lab): Mr Thompson is taking a rather unfortunate line when we want to adopt a united position in the Parliament. If he is going to raise such points, I ask him when the SNP is, finally, going to deliver on its manifesto pledge to make Gaelic-medium education available to parents on demand.

Dave Thompson: Mr Macintosh talks about unity, but he should ensure that there is unity within his own party before he criticises others.

Peter Peacock must be very embarrassed about the situation. I hope that he and the Highland Council Labour group will give serious consideration to Councillor Mackay's position.

I conclude on a more positive note. I also attended the MG Alba awards in Eden Court theatre last Friday—what a wonderful showcase of Gaelic-speaking talent, young and old. The films were all fantastic and were a testimony to the richness of Gaelic Scottish culture and the benefits of bilingualism, which improves brain development and cognitive abilities. If the last sentence was too difficult for members to understand, they are probably monoglots and should get along to Gaelic classes right away. If they do, they too will be able to benefit from BBC Alba when it moves to Freeview in the near future.

11:06

Lewis Macdonald (Aberdeen Central) (Lab): I spoke in support of an Executive motion on the Gaelic language 10 years ago in an historic debate that happened to fall on my daughter

Iona's second birthday. I mentioned how pleased her forebears would have been to know that the Gaelic language was being debated and celebrated in the first year of a devolved Scottish Parliament. I looked forward then to the new opportunities that her generation would have to enjoy Gaelic language and culture to the full, thanks to the positive support of central Government in Westminster and Holyrood and of local government in Aberdeen and elsewhere.

Ten years on, much of that optimism has proved to be justified. My daughter and many of her age group have enjoyed Gaelic-medium education at pre-school, nursery and primary levels, and in Scotland's cities and in the Gàidhealtachd itself there are opportunities to extend that through secondary education, too, even if not always to the fullest extent. The Gaelic college at Sabhal Mòr Ostaig has continued to thrive, and the commitment of my party in government, and other parties too, has put in place a Gaelic-medium broadcasting sector such as previous generations could hardly have imagined.

BBC Alba is at the heart of that, but it is not alone. We should celebrate BBC Alba, but we should support also the broadcast of Gaelic programming on BBC 2 and on STV, all of which contributes to the health and strength of the language and culture. For young people of school age such as my daughter Iona, there is no better platform for their talents and no better source of information and education than "Dè a-nis?". Long may that programme continue to provide such a vibrant forum for Gaelic-speaking children and young people.

BBC Alba takes matters to a new plane. The provision of a dedicated channel for Gaelic-language broadcasting is a recognition that culture in the 21st century is as much about what people see on screen as it is about what they read in books or hear in their daily lives. It is also a powerful tool for regeneration, not only of Gaelic language and culture but of those parts of Scotland where Gaelic has its deepest roots.

We should, in that context, recognise the effective leadership and judgment of MG Alba and BBC Alba in bringing this new medium to market. Many of my constituents with satellite access first take an interest in BBC Alba when they tune in to watch an as-live Scottish Premier League game with Gaelic commentary—for example, many will have watched last night's rousing encounter between Aberdeen and Hibernian when they got home. Football is as much part of Highland sporting culture as shinty is, and the platform that BBC Alba provides for football, shinty and rugby matches is appreciated by Gaels and other viewers alike. It also advertises to the population in general that Gaelic is not only a literary

language for poets and singers, important though that is, but a medium for day-to-day life of people with the same interests and enthusiasms as the rest of the population.

I am glad we have the opportunity to express our collective view, and I hope that Parliament will, at the end of today, speak once again with one voice in support of giving everyone in Alba access to BBC Alba. That should be the first priority of the BBC trust when it makes its decision. Providing BBC Alba with the platform that it deserves, through carriage on Freeview and on cable, will be another significant step for the BBC trust—which has been supportive of the Gaelic language—to take in support of the indigenous cultures of these islands, and I very much look forward to a clear, positive and early decision.

Mòran taing.

11:09

Rob Gibson (Highlands and Islands) (SNP): I am happy to speak in support of the motion that BBC Alba should appear on Freeview as soon as possible. It is interesting to have to focus on a language, as such, because language is a medium for expressing all the things that we do in life. At a recent meeting of the cross-party group on co-operatives, co-operative members talked about what their main focus was and said that the bottom line was that their businesses were made a success because they were co-operatives. The fact is that, for Gaels and others throughout this country, life is made more of a success by having the medium of Gaelic through which to view all the things that we do every day.

The high approval ratings for BBC Alba so far in the areas of news, current affairs, community information, music, lifestyle and entertainment show that people are looking at the normal things in life through the medium of another of this country's great languages. It is essential that the normalisation of Gaelic, which has been mentioned by a number of people today and was discussed by Arthur Cormack in his submission for the debate, is seen as the way forward. In communities in which there is resistance to such normalisation, we need to argue for a live-and-let-live approach. We also have to point out that the model of a local television system that we now have, which breaks the mould of the system whereby programmes are delivered to our television screens by a large, centralised body from afar, provides an excellent model for other kinds of local television that should develop in our country so that we have a multitude of choices. That choice is obviously there nowadays on platforms such as Freeview, which I have benefited from in my home in Easter Ross. I have had free satellite television in Edinburgh, but I

think that that is only because I inherited a dish—there is no way that I would be buying one from Mr Murdoch.

The fact is that programming has to be made available to people on their own terms. They have a right to that access.

It is interesting to see the reach that BBC Alba already has. At the Sutherland summit that took place last August, there was a discussion about the role of Gaelic in that area. One of the points that was made was that German tourists who had seen BBC Alba were interested in coming to Sutherland and the Highlands to see what the places where Gaelic is spoken were like. That is an exact example of how the reach of BBC Alba helps our attempts for Scotland to be recognised further afield. There is evidence of continental interest in the Gaelic language, and I hope that the people of Sutherland will take that interest in that spirit.

The summit identified the geopark in the north-west as one of the principal features that make Sutherland unique. Alongside the geopark and the range of internationally important natural heritage features were Gaelic culture and place names, local food and crofting, all of which could be better developed to sustain the economy.

BBC Alba can play a part in helping to sustain the economy of fragile areas and can expose viewers to a wider range of entertainment than the big centralised channels carry. Who could have seen some of the lower divisions of football, rugby and other sports if BBC Alba had not gone for that gap in the market? Well done. Let us get it on to Freeview.

11:13

Ken Macintosh (Eastwood) (Lab): I am sure that a few colleagues will remember "Tutti Frutti", that great BBC television series of the 1980s, which starred Robbie Coltrane, Emma Thompson, Richard Wilson and others. One of the most memorable moments in the series came when the band had difficulty prying one of its members away from the television. The guitarist, who was a telly addict, was watching "Postman Pat", and the joke was that he was watching it in Gaelic, which meant that, in theory, he could not understand a word. I always liked that scene. It was a very warm moment. I mention it now because it captures one of the most important arguments for making Gaelic television available to all: Gaelic is part of our shared culture; it is there for all Scots, not just a small and diminishing enclave. We must actively ensure that it is available to all, accessible for us to enjoy or ignore as we see fit.

It would be easy for us to appease our liberal consciences—those of us who have liberal

consciences—with gestures of support for Gaelic: a little funding here, a few projects there. However, if we are serious about saving and revitalising the language, we need to share it with one another. We all need access to Gaelic in our everyday lives, not just on our Hebridean summer holidays. Several submissions to the BBC trust's consultation on BBC Alba and colleagues such as Alasdair Allan who have spoken in the debate this morning have referred to that as "normalisation". I would like to know which word Alasdair Allan used, as I do not know what the Gaelic for "normalisation" is—it is an odd word in English. If Gaelic-medium education is the key to growing the language again, access through television is the key to normalising Gaelic for all of us in Scotland.

As is the case in many consensual debates, members are preaching to the converted in the chamber today. I doubt that many of us here need to be convinced that the launch of BBC Alba has been a great success, and all those who are associated with the channel should be congratulated. The figures for audience reach are hugely impressive, when there was every chance that the output could have been simply worthy but dull, and therefore unwatchable.

As has been mentioned, BBC Alba has a core audience of more than 200,000, which is very impressive. Crucially, one in three of those people is a non-Gaelic speaker. The key statistics that we have received from BBC Alba show that the channel is currently available to only just over 40 per cent of Scottish households, so it is very important that we widen that access.

The Labour amendment is crucial in that regard, as it refers to Virgin Media. The access issue concerns not only Freeview; it is important that Virgin makes the channel available on cable too, because around 15 per cent of viewers will not have access to it if Virgin does not resolve its difficulties with the BBC.

Nonetheless, Freeview is the key. Those audience figures, which were gained despite the channel's limited availability, show the success and the impact of BBC Alba, and that is the key reason why we need to make it available on Freeview. Another reason is that the channel has proved to be an important economic driver in the Gaelic community. Members of the Education, Lifelong Learning and Culture Committee visited the BBC at Pacific Quay earlier this week; I was certainly envious of the new technology that was on display for use by my former colleagues. The main Gaelic news programme, "An Là", is broadcast from Inverness and Stornoway, but we saw the transmission gallery more than 100 miles away in Glasgow. The new technology that the BBC has employed allows the high-end, high-quality top production jobs to remain in the

Hebrides, and the Highlands and Islands in general, which attracts young, ambitious and successful graduates to stay in their communities.

I ask the Lib Dems to clarify their amendment; I believe that we are close to unity on the matter, but I have one problem. Let us assume for a moment that the BBC trust does not come back with an alternative. Would the Lib Dems support BBC Alba going on Freeview if it meant that Radios 1 to 5 would be taken off? Those radio stations would not become unavailable—they would just be unavailable on television. I cannot believe that the BBC would want to keep a high production value television channel off a medium that is specifically designed for it, for the sake of enabling people to listen to a blank screen. The worst that would happen is that the audience would have to listen to radio on a radio.

I am pleased that members of the Parliament are almost as one on this matter, and I hope that—in English or Gaelic, on radio or television—the BBC trust is listening.

11:18

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I wish to do two things in my short contribution: to represent my constituents, who are already disfranchised with regard to broadcasting; and to address helpfully Ken Macintosh's question, if not his liberal conscience.

I brought a debate on digital broadcasting to the chamber on the day before the switchover in the Borders took place, when at midnight the Selkirk transmitter became the first in Scotland to move to digital. In the debate, the Minister for Europe, External Affairs and Culture said:

"Please be assured that, as far as I am concerned, the move forward with digitalisation is a joint initiative and Scotland's case will always be pressed by this Government."—[*Official Report*, 5 November 2008; c 12074.]

That was reassuring. However, almost 18 months on, many of my constituents continue to be disfranchised in relation to the provision of digital broadcasting. Nothing that any member has said today with regard to the hope that BBC Alba will be provided on a digital terrestrial television platform will change that. The Government does not seem to know whether anyone who receives signals from a relay transmitter would get BBC Alba if it was provided on Freeview.

The Cabinet Secretary for Education and Lifelong Learning (Michael Russell): Will the member give way?

Jeremy Purvis: I give way to the former Minister for Culture, External Affairs and the Constitution.

Michael Russell: I apologise for intervening, as I am only here for the closing speeches, but, as someone who represents the South of Scotland, I recognise what Jeremy Purvis says. How viewers in the South of Scotland are treated is appalling. However, is it helpful to disfranchise one group because another group is disfranchised? Perhaps we should help both groups.

Jeremy Purvis: That is entirely the point of the Liberal Democrat amendment, and I will address it specifically. I had hoped that the Government's submission to the BBC trust would say that but, regrettably, it did not. The Government had an opportunity to raise that point in its submission, but its response to question 8 in part 2 of the consultation document—"Any other comments?"—was, "Nil". I had hoped that the case would be stressed on behalf of constituents in the Borders and elsewhere in the South of Scotland, and those in the Highlands and other parts of Scotland, who will receive signals through relay transmitters.

It is not an academic point. Half of all viewers in my constituency in the Borders will receive the reduced Freeview service. The Government does not know whether—even if it gets its way on the provision of BBC Alba—that service will be provided in the area. BBC management say that if it is, it will result in the provision of a reduced service elsewhere.

I turn to the specific point that Labour members have made. The BBC trust has issued a consultation, to which I hope we in the Parliament are responding to say that it is simply not good enough for the BBC to present an either/or option. I am sure that all the Labour members have seen, among the options that BBC management have presented, the option of buying commercial space. That seems to have happened with S4C in Wales.

The efficiency outturn figures that the Government presented in November showed that there has been an £8 million efficiency saving in Gaelic broadcasting this year. We are told by the Government that that money should be put back into Gaelic media, and that the saving was a result of changes to the procurement of independent commissioning for BBC Gaelic services. If that is the case—I have no reason to doubt it—the Government has resource, which it would presumably wish to use to move forward with the Scottish digital channel, which is a stated Government policy.

I am not sure which channel would take precedence. If the Government says that it wants to move towards provision for a Scottish digital channel on Freeview, the same principle should presumably apply to BBC Alba, for which the Government provides the lion's share of the funding. If considerable efficiency savings of £8 million have been gained in Gaelic broadcasting, what is the Government doing with that money?

If we want—as the Liberal Democrats do—BBC Alba to be available to all, we must consider those viewers in Tweeddale who are likely not to have any digital radio broadcasting, as well as the prospect that Radio Scotland will be moved to a digital-only service. If the Government does not take action on the provision of BBC Alba and respond aggressively to the BBC trust, we will end up disfranchising more listeners and viewers.

11:23

Jamie McGrigor (Highlands and Islands)

(Con): As a Highlands and Islands MSP, I am pleased to have the opportunity to speak in today's short but important—and very timely—debate.

As my friend Ted Brocklebank said, the Scottish Conservatives are proud that we have been consistent supporters of BBC Alba since its inception, and we have consistently argued that it should be available on Freeview. I made that point very strongly to the then Minister for Culture, External Affairs and the Constitution, Mike Russell, at question time in the chamber just after the BBC trust announced its review of BBC Alba in late October last year.

The Scottish Conservatives' wider record on support for Gaelic has been steadfast and meaningful, and has included support for the establishment of the Gaelic broadcasting fund. I thank Dave Thompson for his recognition of that—members should look at what it has led to. Conservatives in Government delivered tangible benefits for the Gaelic language and Gaelic speakers, and I expect that the next Conservative Government will do the same.

BBC Alba's availability on Freeview is important for many reasons. At the basic level, there is the issue of fairness. Many of my constituents in the Highlands and Islands do not want to or cannot afford to pay hundreds of pounds to access the Gaelic channel through satellite television. Given that Irish people can watch the Irish Gaelic channel for free and that people in Wales can watch the Welsh channel for free, surely it is logical that people in Scotland should be able to access BBC Alba for free. In turn, developing and maintaining a critical mass of viewers for BBC Alba require it to be available on Freeview. I want to dispel any concerns that we might lose our access to BBC network radio stations if BBC Alba is added to Freeview in place of some radio stations. Even if that does happen, radio listeners would still be able to access their stations on Freeview when BBC Alba is not on air. They would also be able to access it at any time on FM, AM, DAB, satellite, cable and online. I share Jeremy Purvis's concerns about people who cannot get

coverage under the new digital network. I hope that that will be dealt with at some point.

There is also a wider argument, of which I am wholly convinced, that BBC Alba has a vital role in sustaining and expanding the Gaelic language. If members on all sides of the chamber are unanimous that we need to reach out to Gaelic speakers and, crucially, to encourage greater awareness of the language and a greater number of people to become involved in learning it, BBC Alba will be a much more powerful tool in achieving those ends if it is available on Freeview.

The medium of TV is critical in reflecting and supporting Gaelic culture, identity and heritage, and that medium must be widely and easily available. BBC Alba has been a success story, with some excellent programming. Everyone should have the opportunity to watch it, which would allow the channel to fulfil its role in assisting the sustenance and future development of the Gaelic language. I, too, watched a fine film on the exceptional comedian Norman Maclean, which prompted me to buy his book, "The Leper's Bell", a sharp and poignant reflection of life in Glasgow and the islands—I recommend it as an excellent read.

I hope that today's debate will help to inform further the BBC trust as it prepares to respond to the consultation that it has undertaken—a consultation that I am confident demonstrated a widespread support for the availability of BBC Alba on Freeview. I support the amendment in the name of my friend Ted Brocklebank.

11:27

Pauline McNeill: It is clear that there is at least a consensus about the success of BBC Alba. Its primary purpose is to give Gaelic speakers and learners access to television programmes in Gaelic that did not previously exist. Without it, there would be a significant loss to the Gaelic community and those who want to learn Gaelic. The gain is significant, and not to extend it would have a marked impact on those who now rely on the channel and those who want to rely on it. It is the diversity of the channel that makes it the success that it is. I would not have such strong support for it if I did not recognise that its diversity has attracted a non-Gaelic audience. I listened carefully to Ted Brocklebank's pleas about the Conservatives' staunch support for Gaelic. I am pleased that he has had an opportunity to make those pleas this morning.

Lewis Macdonald talked about his family and his daughter Iona, one of many young people for whom BBC Alba provides opportunities that did not exist before. Rob Gibson made the same point. Anyone who watches BBC Alba will see that

many new and young presenters are getting a chance to present in Gaelic that did not exist previously. There is a lot at stake.

I commend the Government for choosing to debate this subject. Although there is not much between the Government and Labour in our support for BBC Alba, Dave Thompson's approach was completely out of tune with that of every other member. As Labour spokesperson on the issue, I will put it on the record for Dave Thompson's benefit that the Labour Party's record in the Scottish Parliament is a good one with regard to BBC Alba. We have shown our party's commitment to the channel. Make no mistake: our support for BBC Alba will be influential. I would like to have heard a more consensual approach from Dave Thompson.

Dave Thompson: I accept that Labour's record is good, which is why it was more with sadness than with anger that I raised the point. A growing number of people are vilifying Gaelic, and if we do not nip that in the bud, it could spread, to the great detriment of Gaelic and the confidence of Gaelic speakers. The member really needs to consider that it was a Labour councillor who made those comments.

Pauline McNeill: The member further compounds the issue by rising to his feet. That is an argument for another day. Glasgow City Council, which is a Labour-led authority, has a fantastic record—there is a new Gaelic school in my constituency. However, I am sure that the member takes the point in the spirit in which it was intended.

Alasdair Allan, Ken Macintosh and others tackled the normalisation of Gaelic. To watch telly programmes in one's own language is the kind of normal thing that people want to do, which is why it is a significant issue for someone who is a Gaelic speaker and for whom Gaelic is their choice of language.

I assure the Liberal Democrats that Labour wants to achieve a consensus on this issue. The Lib Dem amendment raises crucial issues about the digital switchover. Lib Dem members have spoken out strongly for their communities and we have supported them in that. However, we might have difficulty supporting the Lib Dem amendment this evening if we are not clear about what it means. There are 4 per cent of listeners who use this service. If we discount people who can get access to radio stations by analogue—FM, AM—and online, there is a small number of people who do not get a digital signal at all. I do not know how many they are; the Government is duty-bound to find out. They are the ones who would be affected. I am advised that such listeners will be concentrated in the Highlands—in fact, some of

them would probably prefer to have this choice, if a choice had to be made

The Liberals are right to say that it should not be an either/or option. I was surprised that the consultation was based on that option. However, we must be honest here and say that there might have to be a choice in the short term. I am no technician—I think Jeremy Purvis knows a lot more about this than me, so I ask him not to challenge me on it—but I feel certain that there is a technical solution; we must ask for such a solution. However, if the Lib Dem position is to delay the extension of Freeview until a solution can be found, it would make it difficult for us to support the Lib Dem amendment this evening. I therefore seek clarification.

Iain Smith: We are trying to say that Parliament should send a message to the BBC trust that we do not think that radio should be removed from Scottish listeners—there are people who will lose services completely as a result of the proposal. There are other options, such as what happens in Wales. In Cardiff, although it is not possible to get E4, it is possible to get E4+1, which means that Wales can get S4C and S4C's news channel. Such solutions may cost a bit of extra money—not a huge amount—but they are possible and the BBC trust should investigate them fully. They can be implemented pretty quickly.

Pauline McNeill: We would support the Government in pursuing that, although, if the cost of buying commercial spectrum would result in any delay—the member has to concede that it might; he has not really addressed that point—we would have some difficulty in doing so. This is a TV platform, for television stations. It would be with regret if we could not support the Lib Dem amendment this evening, but there is a significant cost in buying additional spectrum. I am running out of time but would be happy to discuss the issue with the member. We are trying hard to get a consensus. I fear that what the Liberal Democrats are asking for might delay the extension of Freeview.

11:34

Fiona Hyslop: I am grateful to colleagues for their comments and their support for the motion. We have had much reflection on the journey that we have travelled, and there has been support for the Gaelic language from various parties. This is a short but important debate. I am especially grateful for the constructive spirit in which most members have approached the debate. Interesting and informative points have been made—not least, we have had an insight into Alasdair Allan's eating habits.

First, I will respond to some points that have been made in the debate and, in particular, the amendments that have been lodged. On Iain Smith's amendment, I agree that the decision to place BBC Alba on Freeview should not be made at the expense of access to digital radio stations. The Scottish Government's response to the BBC trust's consultation made it very clear that we want a better solution and I am happy to re-emphasise the point. However, I share the perspective of Pauline McNeill and Peter Peacock on this matter. Indeed, when Pauline McNeill said that this should not be an either/or option, I noted that Iain Smith was nodding in agreement. Perhaps that shows that we can reach consensus in this area.

Iain Smith pointed out that, even after digital switchover, not everyone will be able to access all Freeview channels. Indeed, approximately 15 per cent of the population, almost half of whom live in the Scottish Borders, receive only the public service channels instead of the full range of more than 40 channels. The Scottish Government has already made representations to the UK Government on that matter and I am happy to do so again. However, because broadcasting is reserved to the UK Government, our ability to change the present state of affairs is greatly limited.

The Scottish Government welcomes the BBC trust's support for Gaelic media and the current interest in detailed matters relating to the operation and availability of BBC Alba, and the trust's review of the channel and its consultation on Freeview access are also welcome. We have recently emphasised the urgent need to increase the number of Gaelic speakers in order to secure the language's future and have recognised BBC Alba's vital role in that respect. We are encouraged by the channel's current performance and are strongly in favour of its being made widely available.

Given that digital switchover in Scotland will be completed by June 2011 and that Freeview is now regarded as normal telly, the BBC must ensure that Gaelic has a place. Welsh is present through S4C; Irish will also be available; and we are now asking the BBC trust to ensure that Gaelic is included in what we all regard as normal telly.

The evidence shows that BBC Alba not only provides a good service to Gaelic speakers and those who are learning the language, but has an appeal beyond the Gaelic speech community and contributes to the education strategy for the language. Indeed, Lewis Macdonald made a good speech on that very matter. Of course, its educational and cultural contribution would be even greater if more people were able to see it. That means that it has to be available on cable as well as Freeview and, in that respect, I support

Pauline McNeill's call for the BBC and Virgin Media to resolve their differences and ensure that cable viewers have full access to the channel.

As Ted Brocklebank's amendment rightly points out, BBC Alba has played a crucial role in supporting Scotland's independent production sector. Last year, almost three quarters of its content budget was allocated to the 27 companies outwith the BBC from which it commissioned programmes.

Over the past 17 months, BBC Alba has established itself as a crucial element in the Scottish broadcasting industry and in Gaelic as well as Scottish culture. However, its long-term success relies on its being available to as many people as possible in Scotland and, for that reason, I urge all members to support the motion as amended.

Jeremy Purvis: Does the Government agree that the BBC trust's indication that it remains open to the proposal to carry out another public value test on the removal of radio services, including Radio Scotland, from Freeview provides an opportunity to explore other areas and ensure that we do not have an either/or option? If so, there should be no obstacle to supporting the Liberal Democrat amendment.

Fiona Hyslop: We agree with the suggestion in Iain Smith's amendment that there should not be an either/or option, but I acknowledge and agree with the Labour Party's argument that there should be no delay in this matter. Of course, that will not stop us making it imperative that the BBC trust come up with alternative solutions. Indeed, I believe that the chamber can come together on that very point.

I urge all members to reach a consensus on this matter, support the motion as amended at decision time and ensure that the Scottish Parliament speaks with one voice.

The Presiding Officer (Alex Fergusson): That concludes the debate on access to BBC Alba.

We are a few seconds early for general question time but, as the key players are in place, we will go straight to the first question.

Question Time

SCOTTISH EXECUTIVE

General Questions

11:39

Summary Justice Reforms

1. James Kelly (Glasgow Rutherglen) (Lab):

To ask the Scottish Executive what progress has been made with the implementation of summary justice reforms. (S3O-9473)

The Cabinet Secretary for Justice (Kenny MacAskill): The reforms have made a significant contribution to the delivery of summary criminal justice. Nationally, good use is being made of direct measures for low-level offences, meaning that they are dealt with swiftly and without the need to take up valuable time in the courts. Cases that proceed to court are now being dealt with more quickly. We are also seeing more pleas of guilty at pleading diet, which means that victims and witnesses in those cases avoid the stress of a court case. However, although good progress is being made, there is still scope to improve efficiency and effectiveness in the summary courts and work is on-going at national and local level.

James Kelly: When this issue was recently discussed by the Justice Committee, the Association of Scottish Police Superintendents expressed concern that the rights of victims and communities are being sacrificed. Does the cabinet secretary agree that those fears are being harnessed in the pursuit of a policy of a presumption against sentences of six months or less and that that policy has been undermined further by statistics that were reported on Tuesday, which show that a third of community service orders are being breached?

Kenny MacAskill: No, I do not agree. The summary justice reforms that Mr Kelly seems to be so staggered by and aghast at were first begun under the previous Labour-Liberal Administration. As with so many matters, Labour in government says one thing and does nothing, but in opposition takes the contrary position.

I refer the member to the Solicitor General for Scotland's evidence at the meeting of the Justice Committee that Mr Kelly attended, which showed that a far higher percentage—60 per cent—of fiscal fines are being paid now compared with the 40 per cent that were paid before the summary justice reforms. We are implementing the reforms; progress is being made; and Labour remains with its soundbites, having done nothing while in

government and saying something completely different when in opposition.

Christina McKelvie (Central Scotland) (SNP): Does the cabinet secretary believe that the introduction of arbitrary six-month mandatory sentences for carrying a knife, which take no account of the crime's context or circumstances, will simply clog up the courts and prison system with offenders, many of whom will be young first-time offenders who could more appropriately be dealt with through other types of disposal? Does he also agree—

The Presiding Officer (Alex Fergusson): Briefly, please. This is a supplementary question.

Christina McKelvie: Does the cabinet secretary agree that effective policing and education represent the best way of tackling and preventing knife crime?

Kenny MacAskill: Absolutely. In this matter, I must stand by the fine words of Hugh Henry. He is not here today to stand up for himself, but when he was the Deputy Minister for Justice he made it clear how ridiculous the proposal was. That said, I note that with regard to its own proposal, Labour is now talking about exceptional circumstances relating to both the offender and the offence. How is that any different from the current law? Hugh Henry ruled out the proposal when Labour was in government but, yet again, when in opposition Labour tries to score cheap political points and refuses to address the fundamental issue of the booze-and-blades culture that my predecessor highlighted. Labour talks tough about blades, but it did nothing about them when it was in power. As for booze, it is now doing nothing to tackle the real problem of the availability of cheap drink.

Legal Highs

2. Joe FitzPatrick (Dundee West) (SNP): To ask the Scottish Government what action it is taking to combat the use of legal highs such as bubbles, which is a form of methadone. (S3O-9520)

The Minister for Community Safety (Fergus Ewing): Last week, I wrote to the Home Office to stress the importance of finding a solution to this problem as quickly as possible. I am of the view that these synthetic cathinones can be as harmful as any other illicit drug and should therefore fall under the Misuse of Drugs Act 1971 as soon as possible.

We are to fund the provision of training materials for alcohol and drug partnerships and have also expanded our know the score drug awareness campaign to include many of these so-called legal highs, including mephedrone, and to make advice on drugs and their risks available through our helpline and website.

Joe FitzPatrick: Anecdotal evidence suggests that bubbles seems to be a growing problem, particularly in Dundee; indeed, the name first appeared in the media in the city's *Evening Telegraph*. Given that, as the minister has pointed out, the use of mephedrone can cause adverse reactions, including, in extreme cases, death, does he agree that we really need to urge Westminster to add it to the list of illegal drugs as quickly as possible?

Fergus Ewing: The local member has highlighted the problem in Dundee, where, as reports in November 2009 indicated, five young people needed treatment after using so-called bubbles. All recovered, but two had to be hospitalised.

Research by the University of Liverpool reported a number of possible adverse and serious health effects. That is why I wrote to the Home Office last week to express my concern on behalf of the Scottish Government. We believe that such legal highs should be added to the list of illegal drugs. The sooner that that happens, the better.

Richard Baker (North East Scotland) (Lab): Will the minister join me in praising the efforts of Tayside Police to educate young people in particular about the severe health dangers of so-called legal highs such as bubbles? Does he agree that, while it is absolutely right to move to ban such substances—consideration of mephedrone must be part of that—the interim action that police forces are taking to prosecute for reckless conduct those who distribute such substances must also be supported?

Fergus Ewing: Of course we recognise and support the excellent work done by police forces throughout Scotland. Arguably, they have had greater success in tackling drugs in the past 12 months than they have had at any other stage in the history of policing in Scotland, not least in Grampian, where they have carried out massively successful operations. We continue to support the police and the Scottish Crime and Drug Enforcement Agency in taking tough and effective action.

“Review of Fatal Accident Inquiry Legislation”

3. Patricia Ferguson (Glasgow Maryhill) (Lab): To ask the Scottish Executive when it expects to respond to the report of Lord Cullen's “Review of Fatal Accident Inquiry Legislation”. (S3O-9465)

The Cabinet Secretary for Justice (Kenny MacAskill): The Government is giving careful consideration to the recommendations that Lord Cullen made in his report “Review of Fatal Accident Inquiry Legislation”. Many of his recommendations have practical implications for

the Scottish Court Service and the Crown Office and Procurator Fiscal Service, and the Government will liaise closely with those bodies in identifying how the recommendations should be implemented.

Patricia Ferguson: The minister will be aware that lengthy delays in holding FAIs cause distress to the relatives of those who have died, and can also affect the quality of the evidence given, because memories fade and, in some cases, people die. Does the minister agree with Lord Cullen's recommendation that preliminary hearings could be held before a full inquiry, so that relatives' concerns could be considered, even though criminal proceedings might be pending in some circumstances?

Kenny MacAskill: Patricia Ferguson said that Lord Cullen recommended preliminary hearings. That would have implications for the operation of the Scottish Court Service and the Crown Office and Procurator Fiscal Service. We instructed Lord Cullen to carry out the review because we are aware, as the Crown Office is aware, of the difficulties with FAIs, one of which is delays, and we are seeking to address those, but the courts have to rise to the occasion in the current situation and deal with cases quicker.

We are discussing the proposals for preliminary hearings with those who are in charge of the Court Service, given the Judiciary and Courts (Scotland) Act 2008, and with the Crown Office and Procurator Fiscal Service, which initiates fatal accident inquiries in the public interest.

Bob Doris (Glasgow) (SNP): The cabinet secretary knows that I have been working with Julie Love and her family following the tragic death of her son Colin on Margarita Island, with a view to extending fatal accident inquiries to include the deaths of Scottish citizens overseas. At Tuesday's Public Petitions Committee meeting, I raised the issue of the timetable for the Scottish Government's response to Lord Cullen's report. Can I press the cabinet secretary to answer that question as a matter of urgency, because relatives are waiting? Will he look at the wider issue of how the consular system and the Foreign and Commonwealth Office could assist in any extension to the FAI process?

Kenny MacAskill: Bob Doris raises two matters. We have had the opportunity to meet him and his constituent.

The issues around the death of Scottish citizens abroad are extremely complex. Lord Cullen makes it clear that in normal jurisdictions, where there are procedures for such circumstances, matters would be dealt with there. Equally, there are countries in which circumstances are more difficult, and the Crown Office might have difficulty in gaining

access, therefore Lord Cullen has raised the point that we should be able to consider those cases.

How the Foreign and Commonwealth Office deals with such cases is another issue. That matter is reserved to Westminster, but the local consulate or embassy has a significant role, especially in dealing with the clear and immediate needs of bereaved relatives. We are more than happy to liaise with the United Kingdom Government on that, because it is appropriate not only to find out the cause of death and the lessons that can be learned but to provide for those who are grieving at the time. The front-line officers abroad are not from the Crown Office in Scotland, they are embassy and consulate officials, so that matter rests with the UK Government.

Private Finance Initiatives and Public-private Partnerships (Funding)

4. Kenneth Gibson (Cunninghame North) (SNP): To ask the Scottish Government how much it will have to find in total from 2010-11 onwards to fund all existing PFI and PPP contracts. (S30-9521)

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): The total unitary payments for all existing PFI and PPP contracts from 2010-11 onwards are approximately £27.7 billion. That figure is inclusive of Scottish Government PFI/PPP funding contributions.

Kenneth Gibson: Does the cabinet secretary agree that PPP and PFI contracts have proven to be an extremely expensive way of delivering new schools, hospitals and infrastructure projects, often to a less than impressive standard? Will he confirm that the Scottish Government will use traditional procurement methods and the Scottish Futures Trust to build much-needed infrastructure projects that represent much greater value for money and do not bequeath an intolerable burden on future generations?

John Swinney: I assure Mr Gibson that running through the Government's capital programme, the work that we are undertaking with the Scottish Futures Trust and all our capital investment is the determination to maximise value for money for the taxpayer. Many PPP and PFI contracts were procured at far too high a cost to the public purse. The Government is determined to maximise value and sustainability in our capital programme in the years to come.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): Does the cabinet secretary recall telling me at the Finance Committee that the non-profit distributing model was part of the PPP family? Does he agree that his Government has changed the hub initiative of the previous

Government by making it an equity investment model, which is currently being tendered for, and that private sector investors will receive profits according to the share of their equity investment, which will be neither limited nor capped? How does that fit with his answer to Mr Gibson's question?

John Swinney: My point was that the Government is pursuing value for money in all its capital investments. That is the absolutely consistent point in what the Government is doing. We have made that central to the initiatives that the Government is taking forward and any decisions on capital investment. That is how we will proceed with our capital investment programme.

David Whitton (Strathkelvin and Bearsden) (Lab): The cabinet secretary and his colleagues might not like PPP but they are not shy about opening facilities that were built using that funding model. Indeed, the First Minister and Deputy First Minister did so earlier this week at Victoria infirmary, and will do so again at Stobhill hospital. Mr Russell is going to visit the new St Ninian's high school in my constituency.

The Presiding Officer: Question, please.

David Whitton: If PPP is so bad, can the cabinet secretary tell us when his £180,000-a-year chief executive of the expensive quango the Scottish Futures Trust will come up with a suitable alternative funding model?

John Swinney: I am sorry to have to add my name to the list that Mr Whitton is banging on about. Through an unbelievable set of events, I have been invited to open my former school, Forrester high school in the city of Edinburgh, which has been refurbished. I will be delighted to return to see the school as a new venture in continuing its fine academic tradition. I am not sure if Mr Whitton gets invited back to his old school; maybe he has to see the headmaster, or something like that.

I assure Mr Whitton that the Scottish Futures Trust is working extremely hard on a range of different interventions to ensure that value for money is at the heart of our capital investment programme.

Community Planning

5. Michael McMahon (Hamilton North and Bellshill) (Lab): To ask the Scottish Executive what progress there has been in community planning. (S3O-9482)

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): Community planning partnerships are doing extremely good work. I am delighted that we have

agreed single outcome agreements with all 32 partnerships, in which they have set out their priorities to deliver better outcomes for their communities.

Michael McMahon: Is the cabinet secretary aware that a recent case study by the Scottish centre for regeneration highlighted concerns about a lack of community engagement in community planning and about the future use of the fairer Scotland fund after the removal of ring fencing? Will the cabinet secretary assure us that he will take steps to improve community engagement and to prevent fairer Scotland funding from being used to prop up mainstream budgets, which are increasingly under pressure?

John Swinney: I agree with Michael McMahon's substantive point that it is essential that effective community engagement is at the heart of community planning. That is an essential element of the arrangements that are in place. If Mr McMahon has examples from his constituency work or wider areas that he wishes to draw to my attention, I would be delighted to take action in that respect. We have agreed with local authorities and the Convention of Scottish Local Authorities a set of outcomes that will assist us in deciding how the fairer Scotland fund money is used to support the achievement of those outcomes. I suspect that Mr McMahon will agree with those outcomes. As I say, if he has particular concerns, I would be delighted to respond to them.

Dangerous and Antisocial Parking

6. Cathy Peattie (Falkirk East) (Lab): To ask the Scottish Executive what action it has taken to address dangerous and antisocial parking since May 2007. (S3O-9491)

The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson): Enforcement of parking restrictions that are imposed by local authorities under the Road Traffic Regulation Act 1984 is a matter for the police or, where decriminalised parking enforcement has been introduced, for parking attendants who are employed by or under contract to the local authority.

Cathy Peattie: The minister will agree that, in fact, that is not working. Pavement parking creates a risk for children, parents with buggies and people with disabilities who have wheelchairs or scooters. Will he consider how the measures can be strengthened and perhaps how local authorities can introduce byelaws to end pavement parking?

Stewart Stevenson: Local authorities have powers to promote traffic regulation orders under the Road Traffic Regulation Act 1984. That allows them to cover wide areas and hotspots where such unhelpful and unsocial parking takes place. I

encourage them to do so. My officials will be happy to advise, if that is of assistance.

Scottish Qualifications Authority Awards

7. Angela Constance (Livingston) (SNP): To ask the Scottish Executive how it will ensure that courses developed under the curriculum for excellence meet eligibility requirements for Scottish Qualifications Authority awards. (S3O-9516)

The Minister for Culture, External Affairs and the Constitution (Michael Russell): The curriculum for excellence aims to raise achievement through improved learning and teaching. Ensuring that learners can progress smoothly from their broad general education at the end of secondary 3 into qualifications during the S4 to S6 senior phase will be a key part of that. The Scottish Qualifications Authority is working positively with the education profession to ensure that the new qualifications build on prior learning and are flexible enough to be timetabled in different ways while maintaining standards.

Angela Constance: Does the cabinet secretary share the concerns that have been expressed that some of the new highers that are being developed under the curriculum for excellence are at risk of appearing to be highers in name only, first, because they do not contribute to the national statistics on school performance and, secondly, because some pass marks equate to only 45 Universities and Colleges Admissions Service points, which is not even the equivalent of a C pass?

Michael Russell: We must ensure that every qualification that is available at school is rigorous and contributes to the continual improvement in achievement by young people. I am certain that the new qualifications will do so but, as I have made clear in the Parliament before, I will not sign off any arrangements for the curriculum for excellence or new qualifications until I am absolutely convinced that they contribute positively to the development of Scotland's young people.

Flooding

8. Stuart McMillan (West of Scotland) (SNP): To ask the Scottish Government what consideration has been given to using people subject to community service orders, where appropriate, to work in alleviating flooding. (S3O-9533)

The Cabinet Secretary for Justice (Kenny MacAskill): We have seen the excellent work that people who are on community service have been doing clearing snow in the recent winter months. That type of work demonstrates clearly the potential for work by offenders in the community.

In doing so, they do something necessary, rather than getting free bed and board in prison and giving nothing back to the communities that they have harmed. However, flooding is a different situation from snow clearing. Although local authority community service teams assist with emergency situations, flooding management is highly skilled and potentially dangerous and is under the control and command of the police and fire and rescue services.

Stuart McMillan: I am not sure whether the cabinet secretary is aware of my campaign on the issue in Inverclyde, which has had major problems with flooding in recent years. I agree that there are health and safety legislation aspects, but I am sure that, where there is a will, there is a way. Will the cabinet secretary therefore agree to meet me to discuss the matter further and, I hope, find a way of making progress on the proposal?

Kenny MacAskill: Absolutely. The Government is keen that, as I said, people should not be given free bed and board. They should be locked up when they are a danger to the community and have committed serious offences that merit that but, other than that, they should pay back the harm that they have done and make our communities safer and better.

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-2203)

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

Iain Gray: In paragraph 7.7 of the Scottish ministerial code, it says:

"in some cases it may not be appropriate for a Minister to provide a reference, even as an MSP."

What about the case of a criminal who stole £80,000 of benefits and who had previously been convicted of stealing people's pension and benefit cheques while running their post office? Does the First Minister think that someone who is guilty of that crime should go to prison?

The First Minister: Iain Gray should realise that a First Minister commenting on a live case before sentencing would be in breach of a range of things, including parliamentary procedure, ministerial procedure and every other procedure. If I or Iain Gray was the MSP, of course we would have an absolute obligation—[*Interruption*—an absolute obligation to take on a case, as specified in the code of conduct for members of the Scottish Parliament, in paragraph 8.1.1.

There are times when members cannot do anything to help their constituents. Sometimes there is conflict with other cases and when people come to it they represent other constituents; sometimes there is political disagreement. However, every MSP in the Parliament should have a duty of care to their constituents, and if they can help they should try to help. That is how a real constituency MSP like Nicola Sturgeon serves her constituents.

Iain Gray: It is a matter of judgment. For the avoidance of doubt, I say that I would not have written such a letter for a constituent who was guilty of such a repeat crime. Is any MSP willing to say that they would have written the same letter for the same man having committed the same crime? Put your hands up! [*Interruption*.]

The Presiding Officer (Alex Fergusson): Order.

Iain Gray: The First Minister and his deputy seem to be on their own on this one. I ask a general question: where does the First Minister draw the line? What crime does someone have to

commit not to receive a character reference from the First Minister or his deputy?

The First Minister: Nicola Sturgeon was elected as the constituency MSP for Govan. Iain Gray lost his seat as a constituency MSP.

We have a range of examples of people representing their constituents. When Gordon Brown was Chancellor of the Exchequer, he prepared a character reference for one of his constituents. That case is not live before the courts. When sentencing, Lord Cowie said:

"This would normally result in a custodial sentence but in all the circumstances, and taking account of all the references before me, I have decided to make a community service order".

It is the right of members of Parliament to represent their constituents, through their legal representatives, to a court. It is the obligation of the court then to dispense sentence. That is the law and that is the obligation of constituency members of Parliament.

Iain Gray: For all the people who are watching at home, let us be very clear. No member of this Parliament is bound to vouch for the character of just anyone. The code of conduct for MSPs says that members

"should consider issues on their merits, taking account of the views of others."

What about decent, law-abiding Scots? What about the pensioners and families who were left with nothing when their cheques were stolen? Did Nicola Sturgeon consider their views when she wrote the letter?

The First Minister: The code of conduct says, in paragraph 8.1.1—let us quote it exactly—that

"It is expected that each member will take on a case when approached"

by a constituent. It goes on to specify the circumstances in which a member would not take on a case. The circumstances are that a constituent's request could conflict with other interests or perhaps with "existing casework"—a conflict of interest in constituencies.

There is example after example of members of Parliament and MSPs making representations to court. I mentioned Gordon Brown when he was Chancellor of the Exchequer. What about Paul Goodman, the Conservative MP for Wycombe and the shadow minister for communities and local government, who wrote to Reading Crown Court in September last year on behalf of three men who were accused of attacking another man in High Wycombe? What about Joe Benton, the Labour MP for Bootle, who wrote to Liverpool Crown Court in December 2008 on behalf of Christopher Brown, a constituent who was charged with

firearm offences after selling guns online?
[*Interruption.*]

The Presiding Officer: Order.

The First Minister: Or what about John McDonnell—a fine Labour MP in my estimation—who wrote to Isleworth Crown Court in September 2006 in defence of two constituents who were accused of using false passports? Members of Parliament have to do their best for their constituents. They should do it without fear or favour and not because they condone their actions, not because they like or dislike them, and not because the constituent votes for, or does not vote for, them but because they have a duty of care.

The Presiding Officer: Order.

The First Minister: If members do not understand that obligation on members of Parliament, they should not be representing constituents on any matter.

The Presiding Officer: When I ask for order, I must get it. As I have said before, I allow as much flexibility as possible. When I ask for order, please give it to me.

Iain Gray: The conflict of interests that lies at the core of this question is between the interests of the criminal and those of the victims of crime. My constituents will judge me on which side of those interests I lie. I spent yesterday standing up for the victims of knife crime; Nicola Sturgeon spent yesterday standing up for a criminal. That is how bad her judgment is, but this is now about the First Minister's judgment. Whose side is he on? I give him one last chance: will he back Nicola Sturgeon or sack her?

The First Minister: I admire, like the people of Scotland and her constituents do, Nicola Sturgeon's work as a constituency member of Parliament. She is a fantastic Deputy First Minister of Scotland and she has my 110 per cent support.

For the avoidance of doubt, the conflict is actually specified in the code of conduct. I would have thought that Iain Gray would have some mastery of the code of conduct after all the comments that he has made on it in recent days. The code of conduct refers to action that would

“represent a conflict of interest with existing casework”.

Conflict with another case in the constituency is specified as the conflict.

The rules for and obligations of a member of the Parliament are laid down and Nicola Sturgeon has followed those rules and obligations. However, the heart of the issue is about more than that; it is about whether people can rely on their constituency member of Parliament to represent them, without fear or favour, whether they like

them or dislike them and whether or not they vote for the member. Do we or do we not recognise an obligation to do our best for our constituents?

The Presiding Officer: Order.

The First Minister: Nicola Sturgeon's obligation is to do her best for her constituents. The court's obligation is to dispense sentence. I hope that we never get to the day when Iain Gray decides what sentences should or should not be dispensed by the courts of Scotland. [*Interruption.*]

The Presiding Officer: Order. [*Interruption.*] Order! I repeat that when I ask for order, I expect to get it. No matter whom I ask it from, I expect the same response.

Prime Minister (Meetings)

2. Annabel Goldie (West of Scotland) (Con):

To ask the First Minister when he will next meet the Prime Minister. (S3F-2204)

The First Minister (Alex Salmond): I have no plans to meet the Prime Minister in the immediate future.

Annabel Goldie: The events of the past 24 hours are extremely worrying and they go to the heart of the conduct of this Government. The Deputy First Minister is under serious scrutiny. I am not calling for her resignation at this stage—I believe that such a call is premature—but many questions need to be answered, and must be answered if Ms Sturgeon is to retain the confidence of this Parliament. If necessary, she should come before this Parliament and make a statement.

In the meantime, clarification is overdue. Is this a constituency issue or a Government issue? The Government's chief spin doctor—at taxpayers' expense—was sent out to defend Ms Sturgeon. Surely that makes it a Government issue. Did Ms Sturgeon seek or receive advice from Government officials on this matter? Is she now receiving advice from Government officials? Did Government officials do checks on Mr Rauf on behalf of Ms Sturgeon?

Will the First Minister now insist that Ms Sturgeon make a statement to this Parliament?

The First Minister: I appreciate the way in which Annabel Goldie has raised the matter. It is entirely a constituency matter for Nicola Sturgeon as the MSP for Glasgow Govan. The reason for the Government representatives putting forward comments on behalf of Nicola Sturgeon was of course the call for her resignation as Deputy First Minister of Scotland. If somebody, however ill-advisedly, calls for the resignation of a minister because of their constituency duties—which sounds to me a remarkable thing to do—of course it is perfectly proper for that minister to be

defended by Government spokespeople. Now that that has been clarified, I hope that Annabel Goldie will accept that at least that part is quite clear and capable of defence and no misunderstanding.

Annabel Goldie: Given that the First Minister has now confirmed that this is an issue for the Government, there are questions for the Government. MSPs are not, as Ms Sturgeon has claimed, “duty-bound” or, as the First Minister has averred today, under “absolute obligation” to make representations to a court for a constituent. An elected politician is not an officer of the court making a plea in mitigation. We all have discretion as to whether and how to get involved. Indeed, who asked Ms Sturgeon to get involved?

The First Minister did not answer Mr Gray’s question. Will he confirm that paragraph 7.7 of the ministerial code has not been breached?

Do Mr Rauf or his associates have any connections with the Scottish National Party or the independence movement?

Does the First Minister genuinely believe that serial fraud, two convictions and 779 fake signatures can all be dismissed as, to quote Ms Sturgeon, “mistakes”?

That is why a statement must be made to this Parliament.

The First Minister: I clarify the point again. Nicola Sturgeon dealt with this matter as the constituency MSP for Glasgow Govan. The only Government involvement has been after the calls for her resignation as Deputy First Minister of Scotland. Not just the Government spokespeople’s reaction but my reaction has been to do two things: to defend the rights and obligations of constituency members of Parliament as I see them—hence the questions to me today—and to say absolutely that I am 100 per cent behind Nicola Sturgeon as the Deputy First Minister of Scotland.

Now that I have clarified that point, I know that Annabel Goldie will see that it is perfectly reasonable for a Government minister to act as a constituency MSP and it is perfectly reasonable for spokespeople for the Government to defend Government ministers when they are attacked by other parties and there are calls for their resignation. It would be an extraordinary situation if I were not allowed to dismiss calls from Iain Gray for Nicola Sturgeon’s resignation.

On the specific points that Annabel Goldie made, I know of no contact or anything else—apart from with Nicola Sturgeon as a constituency MSP—between the individual in question and the Scottish National Party. I could—but I will not strain the tolerance of the Parliament—list occasions, of which I have so many, on which

Labour members of Parliament have defended people where there were contacts with the political party. On the specific point that Annabel Goldie raised, I repeat that I know of no contact, apart from with Nicola Sturgeon in the constituency MSP role, between the gentleman and the Scottish National Party. I hope that Annabel Goldie will accept that, now that I have made it clear.

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-2205)

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

Tavish Scott: People outside Parliament do not understand how the First Minister and ministers have let all this happen. Yet again, will the First Minister tell the chamber where he draws the judgment line? Is there anyone who can walk through an SNP minister’s door and not get the letter that they want? How bad does it have to be before the SNP says no?

The First Minister: The specification is in the code of conduct. Let me read it again, so that even Tavish Scott understands it fully:

“Every constituent is represented by one constituency MSP and ... regional MSPs ... It is expected that each member will take on a case when approached”.

The exceptions that are recognised in the code apply to specific things such as conflict of political beliefs or other constituents’ interests. The process of sending, on behalf of constituents, letters that will be used by their legal representatives is well known. Indeed, Gerry Brown, one of Scotland’s most prominent solicitor advocates, who presumably knows a bit about the issue, described it on the radio this morning as “reasonably common”.

I can give countless examples of MPs who have taken that role in serving their constituents. For example, when Gordon Brown made a submission on behalf of somebody who was charged with having grown £10,000 worth of cannabis at his home, I do not believe that he did so because he condoned the growing of cannabis. He did so because he was that person’s constituency representative. The whole basis of the duty of care is that, as a constituency representative, an MP or MSP has to represent people, whether or not they agree with them, condone them—whatever their politics are. That is at the heart of representative politics.

Tavish Scott: That was another shifty answer from the First Minister. He is trying to shift the blame on to someone else. The key word in the

code is “expected”. Mr Salmond would do well to look closely at it.

The Cabinet Secretary for Justice has called for new laws under which criminal assets can be confiscated. The cabinet secretary has said that such criminals are “parasites” who live

“off the back of law abiding folk”.

Why did none of that occur to the Deputy First Minister when—I assume—she was sitting opposite one of them? The Cabinet Secretary for Justice has said of such criminals:

“we’re going to take them on and we’re going to take them down.”

Does the Deputy First Minister simply take down whatever someone says and send it to the judge? Why does the First Minister have one minister who talks tough and another who begs for leniency?

The First Minister: I would have thought that Tavish Scott would welcome the huge success of the asset campaign that the Cabinet Secretary for Justice is pursuing.

The issue is clear: someone who operates as a constituency MSP does their best for their constituents without fear or favour. There are countless precedents for this and similar cases. Is it the case that all the people whom I have listed should be called upon to resign, as Iain Gray suggests? Are we going to merge totally the role of a constituency MSP and that of a Government minister, or will we retain at the heart of our system of politics that, when a constituent asks for help—and if it is possible for that help to be given—the MSP should give it? If an MSP does not understand that, regardless of popularity, they should not be a constituency member of Parliament. The hard stuff is part of the job, as well as everything else.

The Presiding Officer: I will take a constituency question from Cathy Jamieson.

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): The First Minister is aware of the murders in my constituency of Diane Fallon and her 10-year-old daughter, Holly: a tragedy that has shocked the whole community. Given that the person who was convicted of the murders was a known sex offender with a previous conviction, does the First Minister agree that, although an internal inquiry by the police is welcome as a first step, it is not a wholly adequate response? Will he ensure that an independent inquiry is held, with the findings reported to Parliament and made public? Will he also ensure that immediate steps are taken to extend the pilot scheme under which communities are given access to information about sex offenders who live in their community?

The First Minister: I thank Cathy Jamieson for the way in which she raised the constituency issue and welcome her welcome for the police inquiry. At this stage, we should see what progress the inquiry makes. The Cabinet Secretary for Justice will keep on review whether another inquiry is necessary, given the findings of the current inquiry. The member makes a strong point, which was discussed at the Cabinet on Tuesday, about whether there may be a strong case for accelerating the pilot study in Tayside, to see whether aspects of the early examination of that work might have been relevant to the case that we are discussing and might give more security to the people of Scotland generally.

Primary Care Medical Services

4. Ian McKee (Lothians) (SNP): To ask the First Minister how the Scottish Government will respond to the increasing public demand for the availability of primary care medical services in the evenings and at weekends. (S3F-2210)

The First Minister (Alex Salmond): The Government is committed to ensuring that high-quality primary medical care is available whenever and wherever people need it. National health service boards, working with multidisciplinary teams and NHS 24, are well equipped to continue to provide a high-quality service. We recognise the fundamental part that is played by general practitioners.

We have invested record sums in primary medical services—up by 2.7 per cent over the past three years—and are taking through the Parliament the Tobacco and Primary Medical Services (Scotland) Bill, which safeguards GPs’ role. The number of GPs has increased by 14 per cent since 2004. We have invested £7.4 million to extend access to GP practices across Scotland, meaning that more than two thirds of practices now offer their patients appointments at times more flexible to their needs. However, we agree with the British Medical Association that we cannot return to the days when individual GPs, as opposed to the health service, were forced to provide cover 24/7.

Ian McKee: I welcome the Government’s commitment to high-quality primary medical care and investment in that. Does the First Minister agree that one of the strengths of such care in the past has been the continuity that it offers? Although I accept that a 24-hour individual GP commitment is neither desirable nor achievable, the retreat from practices providing services in the evening or at weekends that has taken place since 2004, which means that it is impossible for some people to be seen routinely without missing work, has led to a fragmentation of delivery of primary care that is not in the interests of patients, the

national health service or the wider economy. Should not the issue be given further attention?

The First Minister: I recognise Ian McKee's expertise in this area and his concern. The matter is kept constantly under review. Equally, I hope that the member recognises that the extension of access that has been taking place is intended precisely to enable people to see their general practitioner outwith normal working hours, so that that is not disruptive of work patterns. The Cabinet Secretary for Health and Wellbeing has pushed through a substantial advance that will be welcomed and which we would like to see applied more widely across Scotland.

Ross Finnie (West of Scotland) (LD): Does the First Minister agree with the recommendation in the BMA's recent report that the NHS 24 should focus on improving its core business of call triage and integration with local services, rather than planning further service expansion?

The First Minister: NHS 24 is doing that. Its performance has been improving and is exceptionally good. In my estimation, the recent threat of a flu pandemic demonstrated the worth and resilience of NHS 24 across Scotland. The issues that Ross Finnie raises are being taken on board and considered, but he should acknowledge that NHS 24, after a period of strong initial criticism following its launch, has made substantial improvements and is recording a first-class performance.

Jackie Baillie (Dumbarton) (Lab): The First Minister will recognise that increasing public demand on primary medical services may have an impact on funding. Does he agree with the Deputy First Minister, who said yesterday that there is record funding for the NHS in the coming year, or does he agree with another member of the health and wellbeing ministerial team, one Alex Neil, who on the same day expressed in the Wishaw press his fury at cuts to health services? Who is right?

The First Minister: The figures are quite clear. The health service has been protected in the Government's budget, as witnessed by examples in Glasgow such as the new Southern General hospital, which is the largest capital project in the history of the national health service, and built with public money. Even Jackie Baillie should welcome that commitment from this Government not just to the west of Scotland and the health service, but to the great city of Glasgow.

Local Authorities (Resources)

5. Johann Lamont (Glasgow Pollok) (Lab): To ask the First Minister what the Scottish Government's response is to the survey by Unison that predicts that local authorities are facing a

£305 million drop in income and the loss of 3,000 jobs over the next year. (S3F-2217)

The First Minister (Alex Salmond): The response is that local government, along with the rest of the public sector in Scotland, has to cope with over £500 million of cuts in the Scottish budget imposed by Johann Lamont's colleagues at Westminster for 2010-11. As Johann Lamont well knows, we are, in contrast, increasing revenue funding to councils by £325 million in 2010-11 on a like-for-like basis exactly to help local authorities protect front-line services and play their part in the economic recovery. She will remember that, under the previous Administration, local government's share of the Scottish budget was in steady decline year after year. We are now delivering on our commitment to increase local government's share of the overall budget year on year. It will go up from 33.4 per cent in the last budget set by the Labour Party in 2007-08, to 34.1 per cent in 2010-11.

Johann Lamont: I am sure that the First Minister would wish to acknowledge the authority of Unison, given that it represents workers who are committed to delivering critical services in our communities, rather than dismissing it, as his answer suggests.

What steps has the First Minister taken to meet Unison to discuss its concerns and, in particular, its troubling findings that care assistants who support vulnerable people in their own homes will be the first to lose their jobs? The First Minister clearly shares his Cabinet Secretary for Finance and Sustainable Growth's complacent view that the Scottish Government is funding local services with, as I think he said yesterday, some style. If he does, will he explain why local authorities, the unions, voluntary organisations and worried families in our communities all report, and are fearful of, significant cuts at the local level? Are they making it up? Can it be that they are all out of step, bar the First Minister? Will he respond to those serious concerns rather than dismiss them?

The First Minister: Certainly, if Johann Lamont wants to have a look back at my previous answer, she will find that, far from dismissing them, I acknowledged that local government, with the rest of the public sector, has to cope with cuts that are being imposed by her colleagues at Westminster.

Johann Lamont asked about meetings with Unison. The Cabinet Secretary for Finance and Sustainable Growth has met Unison, and the Cabinet Secretary for Health and Wellbeing met Unison on Tuesday. They are fully involved in allowing Unison to make its representations, as we would expect.

Johann Lamont's question implies a fundamental misunderstanding of the

Government's position and, indeed, of simple economics. We have just heard a comment from Jackie Baillie that, if I interpreted it correctly, suggested that the health service should have more money. We have just had comments from Johann Lamont that, if I interpret them correctly, suggest that local government should have more money. We know as an absolute fact that the share of expenditure from Westminster to Scotland is declining, so at some stage will the financial geniuses on the Labour seats tell us, if the budget is going down by £500 million, how is it that, in their looking-glass world, every service, depending on who asks the question, can get more money? Far from dismissing complaints, our message to the people of Scotland is to look at the Westminster cutbacks and get this nation control over its resources, because that is the only solution for Scottish public services.

Wind Turbines

6. Iain Smith (North East Fife) (LD): To ask the First Minister what assessment the Scottish Government has made of potential locations for offshore wind turbine manufacturing and construction operations, in light of the recent report by Scottish Enterprise and Highlands and Islands Enterprise. (S3F-2214)

The First Minister (Alex Salmond): As Iain Smith will acknowledge, Scotland has massive renewables potential, with an estimated quarter of the European Union's offshore wind resource, as well as a quarter of the tidal resource and 10 per cent of the wave resource. We are therefore well placed to make Scotland the green energy powerhouse of Europe, creating tens of thousands of jobs and generating billions in revenue for the economy. It is therefore vital that we put in place the energy infrastructure that will not just support the industry itself, but enable manufacturing and construction to be carried through in Scotland. That is exactly the challenge that the Scottish Government has set itself and has set the whole country—hence the report from Scottish Enterprise, to which the member refers.

Iain Smith: We all agree that Scotland has the potential to be a world leader in low-carbon energy. Our port structure, company base and skilled workforce are critical to our success.

Today, Nick Clegg, the leader of the Liberal Democrats, pledged to create 57,000 jobs by investing £400 million to upgrade shipyards—

Members: Who?

The Presiding Officer: Order.

Iain Smith: That was to ensure the production of offshore wind turbines.

In last week's report, Scottish Enterprise and Highlands and Islands Enterprise identified 11 key ports, including the Fife energy park—*[Interruption.]*

The Presiding Officer: Order. Let the member ask his question.

Iain Smith: Scottish Enterprise and Highlands and Islands Enterprise identified 11 key ports requiring investment, including the Fife energy park in Methil, so that we can fulfil that potential. How will the Government take forward those recommendations to ensure that Scotland can maximise the economic benefits of its renewables potential?

The First Minister: I thank Iain Smith for that follow-up question, but point out that the report from Scottish Enterprise and the actions from the Government are not two distinct things. The report from Scottish Enterprise was commissioned by the energy advisory board, which I chair—indeed, it was at my suggestion. To identify the potential for manufacturing sites, it is necessary first to identify the sites. We have a comprehensive, rational renewables infrastructure plan, and I recommend that every member of the Parliament read stage 1 of it.

Iain Smith suggests that the salvation of the Scottish renewables industry and the fulfilment of its potential will be dependent on Nick Clegg becoming Prime Minister of the United Kingdom. I do not, for a second, decry good policies from whatever source, but I would like to offer just a bit more assurance to the renewables industries of Scotland—instead of taking on what might be considered a rather long-term debt. I suggest that the member gets behind the Scottish Government's policy, which is paving the way for offshore renewables.

Already, 29 significant onshore renewable applications have been consented to during our term of office. Without breaking the cross-party consensus on the matter, I point out that that is a considerable number more—many times more, in fact—than those that were consented to by our predecessors.

The green energy powerhouse of Europe vision is not something for the hereafter; it is for the here and now. Get behind the Government's actions to bring it forward.

The Presiding Officer: That concludes questions to the First Minister.

Iain Smith: On a point of order, Presiding Officer. In his replies to Iain Gray and Tavish Scott, the First Minister quoted from the code of conduct for MSPs in relation to how we deal with constituency matters. He missed out a key sentence. The code clearly says:

“it is recognised that there may be legitimate reasons for a member to decline a constituent’s case in certain circumstances”.

The Presiding Officer: And what is the point of order, Mr Smith?

Iain Smith: I am coming to it. The First Minister missed out this sentence. The code continues:

“for example, where a constituent requests an MSP to take inappropriate action”.

My point of order is this: can you confirm that that is what the code of conduct says and, secondly, that it is for individual MSPs to use their own judgment to determine what is an “inappropriate action”?

The Presiding Officer: I can confirm that, but it is not a point of order for me to consider.

12:33

Meeting suspended until 14:15.

14:15

On resuming—

Question Time

SCOTTISH EXECUTIVE

Health and Wellbeing

Maternity Services

(Greater Glasgow and Clyde Health Board)

1. Pauline McNeill (Glasgow Kelvin) (Lab): To ask the Scottish Executive what the catchment area is for maternity services at the Southern general hospital and whether it considers that there is sufficient capacity in Greater Glasgow and Clyde NHS Board. (S3O-9484)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): The catchment area for maternity services is determined by postcode analysis. I am more than happy to forward to the member the analysis that NHS Greater Glasgow and Clyde has provided. The board assures me that, based on its detailed forward planning projects, there is sufficient capacity in NHS Greater Glasgow and Clyde.

Pauline McNeill: The minister might be aware that the Queen Mother herself suggested the name of the Queen Mother’s hospital—the maternity service in my constituency—in 1963. She might also be aware that Andrew Calder has led calls to retain that name for the new maternity service at the Southern general hospital. He said that it would be a shame if the memory of the facility was lost and that the Queen Mum’s is the “cradle of ultrasound scanning” and of Ian Donald’s world-renowned work on that. Given that the cabinet secretary acknowledged in a recent letter to me the strength of feeling on the Queen Mum’s, does she agree that NHS Greater Glasgow and Clyde should retain the name for the reason that I have given? Will the cabinet secretary support the idea of retaining the name?

Nicola Sturgeon: As I said in my letter to Pauline McNeill, I understand the strength of feeling on the issue and the reasons for the view that the name of the Queen Mother’s hospital should be retained. As I said in the letter, NHS Greater Glasgow and Clyde is still considering the name of the new maternity unit and it will make a decision on that in due course. I expect the board to take account of the representations on the matter that have been made to it by Pauline McNeill, Sandra White and others before taking a decision.

Sandra White (Glasgow) (SNP): I am sure that the minister will want to join me in acknowledging the great work and dedication of staff in the maternity units throughout Glasgow. She will be aware that Glasgow's Princess Royal maternity hospital had a United Nations Children's Fund seal of approval for promoting breastfeeding, but has recently lost that seal. What steps is the Scottish Government taking to promote breastfeeding?

Nicola Sturgeon: The Government is absolutely committed to the objective of promoting breastfeeding. The health benefits to children later in life from breastfeeding are well known and we will continue to work with NHS boards, which have the principal responsibility on the ground, to do everything possible to promote breastfeeding. I know that all members support the calls to encourage women to breastfeed their children where it is right for them. I certainly welcome the support of any MSP in that endeavour.

Duncan McNeil (Greenock and Inverclyde) (Lab): Does the cabinet secretary accept that the future of midwife-led services at Inverclyde Royal hospital and throughout Greater Glasgow and Clyde NHS Board depends on accurate workforce planning? Does she share my concern that newly qualified midwives are being forced to leave the country to find their first position? Is she disappointed that health boards are turning their backs on the Scottish Government's job guarantee scheme and that, to date, only nine newly qualified midwives throughout Scotland benefit from the scheme?

Nicola Sturgeon: I agree with Duncan McNeil on the value of midwife-led maternity services and that it is important that we have robust workforce planning in place, not just for maternity services, but for all services in the NHS. As all members will be aware, workforce planning is not an exact science and it takes considerable work by boards to ensure that they make the best estimates. The methodology that is used in workforce planning continues to improve.

It is obviously a concern if any newly qualified midwife or nurse cannot get a job, particularly in the area of their choice. That is why the previous Administration—it was not the current Government—introduced the one-year guarantee scheme for nurses and midwives. Obviously, we cannot compel people to apply to the scheme, and nor should we do so, but it is a guarantee. If midwives who cannot through their efforts find a job apply to the scheme, they will be assisted. However—again, members will appreciate the reasons for this—that will not necessarily guarantee midwives jobs in the part of the country of their choice, because it is important that we ensure that, through the scheme, we place midwives where there is a need for them.

Nevertheless, there is a guarantee that will secure them a job for one year.

New Pyjamas Campaign

2. Shirley-Anne Somerville (Lothians) (SNP): To ask the Scottish Government what reports it has received from NHS Lothian regarding the new pyjamas campaign organised by the Sick Kids Friends Foundation. (S3O-9535)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): I am aware of recent media reports regarding the new pyjamas campaign organised by the Sick Kids Friends Foundation. NHS Lothian has confirmed that it recently met representatives from the Sick Kids Friends Foundation and will work with them to ensure a successful fundraising campaign, with the appropriate governance structure. I have asked NHS Lothian to keep me fully up to date with the situation.

Shirley-Anne Somerville: I welcome the investigations that the Office of the Scottish Charity Regulator and NHS Lothian are carrying out into the matter. Does the cabinet secretary agree that although it is important that the investigations are completed as soon as possible and that any action that is necessary is taken, we should never lose sight of the fantastic work that has been undertaken in the past by the Sick Kids Friends Foundation? She will be aware that my family had cause to spend time at the royal hospital for sick children recently. We saw at first hand how the results of fundraising efforts have made a difference to patients and families. Will she join me in encouraging people in Edinburgh and further afield to continue to support the worthy fundraising work for facilities at the new hospital at Little France?

Nicola Sturgeon: I am sure that Shirley-Anne Somerville and other members agree that it is vital that the allegations that have been made are properly investigated. That is not a matter for me or the Government; it is a matter for OSCR. The Sick Kids Friends Foundation has made it clear that it will co-operate fully with OSCR, and everyone will welcome that.

Shirley-Anne Somerville was right to draw attention to the fantastic work that has been done and I hope will continue to be done by the Sick Kids Friends Foundation. Parents like her who have seen the direct benefits for their children of the foundation's work will know that it is impossible to put a value on that work. On visits that I have undertaken in my role as Cabinet Secretary for Health and Wellbeing, I too have seen the benefits of such work and the differences that it can make to the lives of sick children. I am sure that we all want the Sick Kids Friends Foundation to go from

strength to strength and to continue to work with NHS Lothian as it does so.

Mike Pringle (Edinburgh South) (LD): I associate myself with the comments of the cabinet secretary and Shirley-Anne Somerville. What a fantastic job the Sick Kids Friends Foundation has done over the years. The foundation is based in my constituency and I have had quite a lot of contact with it.

Does the cabinet secretary agree that, particularly in the current economic climate, the Sick Kids Friends Foundation must be constituted in such a way as to maximise charitable donations to that worthy cause? Does she acknowledge that moves to bring the charity under the control of NHS Lothian, as some people have suggested should happen, would not only be unprecedented in the United Kingdom but endanger charitable giving from the general public, who might be unwilling further to fund a source that is paid for through public taxation?

Nicola Sturgeon: I thank Mike Pringle for his words of support for the Sick Kids Friends Foundation's work. I am sure that he agrees that it is important that the foundation works with NHS Lothian to secure the future of fundraising and—this is crucial—to ensure that the governance arrangements around fundraising are absolutely robust, whatever they look like. I encourage NHS Lothian and the Sick Kids Friends Foundation to continue their dialogue, to ensure that the work of the foundation in general continues, notwithstanding what might or might not have happened in relation to the new pyjamas campaign. As Shirley-Anne Somerville said, the foundation's work brings great value to the lives of sick children.

NHS Fife (Meetings)

3. Claire Baker (Mid Scotland and Fife) (Lab): To ask the Scottish Executive what will be discussed at its next meeting with representatives of NHS Fife. (S3O-9457)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): Forthcoming meetings with representatives of NHS Fife will cover a wide range of matters of current interest to the NHS in Scotland in general and to NHS Fife in particular.

I meet NHS board chairs and chief executives, including those from NHS Fife, regularly. I chaired the NHS Fife annual review in Dunfermline on 18 January and I met all chief executives on 20 January. The next scheduled meeting with board chairs is on 22 February. Scottish Government health directorate officials also regularly meet representatives of NHS Fife.

Claire Baker: Does the cabinet secretary share my concern that Levenmouth in Fife has a population of almost 40,000, a high density of older people, families with young children and households with no access to a car, and no local pharmacy that is available on a Sunday—a day when there are poor public transport links to Kirkcaldy and Glenrothes? Does she agree that that leaves many in the Levenmouth area vulnerable? Will she support my request for a pilot for increased provision and raise it with NHS Fife?

Nicola Sturgeon: I certainly appreciate Claire Baker's interest in raising the issue. It is important that, in all areas, there is access to a range of good-quality health care services. Obviously, what is available in every local community depends on a range of factors but, if Claire Baker wants to pursue the matter with NHS Fife, I would be happy to draw it to the health board's attention and I encourage her to enter into discussions with the board.

Ted Brocklebank (Mid Scotland and Fife) (Con): The cabinet secretary may recall that, last September, I asked her about dispensing general practitioners in Balmullo and Leuchars in the NHS Fife area. Was she made aware in her meetings with NHS Fife that permission was granted to open a pharmacy in Leuchars, very much against the wishes of locals, who supported their dispensing GPs? Is she also aware that the situation is complicated by a further application to open a pharmacy in neighbouring Balmullo, this time with the support of local residents? What discussions and progress have there been in the review on which pharmacies might be added to the pharmaceutical list? Are Scottish patients to have a greater say in how new pharmacies are established?

Nicola Sturgeon: I acknowledge Ted Brocklebank's interest in the issue. I have twice met those from Leuchars who have campaigned on the issue: first when I opened the St Andrews community hospital, and secondly at the NHS Fife annual review.

NHS Fife granted an application for a community pharmacy in Leuchars in August 2009. There was subsequently an unsuccessful appeal against the granting of the application. It is for NHS boards to consider applications for community pharmacies and for the national appeals panel to consider appeals against any decision to grant an application. The Scottish ministers are not involved in the deliberations about, or the decisions taken on, individual cases.

However, Ted Brocklebank is right to say that the Government is reviewing the legislation and arrangements under which decisions are made. We will shortly consult more widely on that via a formal publication and would welcome the views of

those who have expressed concerns about current arrangements. It is not possible at this stage to anticipate the final shape of the review or any decisions that might be taken once it has been completed, but I previously made it clear to the campaigners from Leuchars—and do so again to Ted Brocklebank—that we welcome the views of people who feel strongly about the issue.

Michael Matheson (Falkirk West) (SNP): During her discussions with representatives of NHS Fife, will the cabinet secretary take the opportunity to raise with them the support that their director of public health has given to the introduction of a form of minimum pricing for alcohol in Scotland, a position that is now supported by all directors of public health in Scotland? Will she also raise the fact that the NHS Fife director of public health is now joined by four of the most eminent experts in public health in the world in calling for the introduction of minimum pricing in Scotland?

Nicola Sturgeon: I thank Michael Matheson for his question. As members will be aware, it is not only in Fife that the director of public health has supported minimum pricing: all directors of public health in Scotland have done so. They join the four United Kingdom chief medical officers, doctors, nurses, the police and sections of the licensed trade in recognising that we have a major problem with alcohol misuse in Scotland and that, although minimum pricing is not the whole answer to that—the Government has never pretended that it is—it can play a big part in rebalancing the relationship and reducing some of the social, economic and health harms of alcohol misuse.

Notwithstanding the different opinions in the Parliament on how to tackle alcohol misuse, I hope that we will—I think that we do—agree that there is a big problem that needs to be tackled. I also hope that, as we progress through the consideration of the Alcohol etc (Scotland) Bill, we will be able to start to build consensus on the solutions. That is what the Government wants to do, and I hope that we will be joined in that by other parties.

“Scotland’s Sporting Chance: a Manifesto for Sport in Scotland”

4. Mr Frank McAveety (Glasgow Shettleston) (Lab): To ask the Scottish Government what its position is on the commitments made in “Scotland’s Sporting Chance: a Manifesto for Sport in Scotland”, recently launched by the Scottish sports alliance. (S3O-9478)

The Minister for Public Health and Sport (Shona Robison): The Scottish Government welcomes the contribution that the Scottish sports alliance offers in helping us to achieve our ambition of creating an active nation. I have and

will continue to have regular discussions with the alliance to determine how best we can deliver our shared sporting outcomes for the people of Scotland. I was pleased to attend the SSA’s reception in the Parliament on Tuesday night.

Mr McAveety: I welcome the launch of the alliance’s manifesto. Along with other parliamentary colleagues, I attended both the event to launch the document and the reception this week.

A key element of the manifesto is

“A commitment to deliver a minimum of 2 hours quality PE per week for all children in Scotland by the 2014 Commonwealth Games to be delivered by PE specialists in both Primary and Pre-School education.”

Given that that was a Scottish National Party manifesto commitment, will it be fulfilled by the end of the SNP Government’s time in office?

Shona Robison: I remind Frank McAveety that the target was set in 2004—perhaps when he was the minister with responsibility for sport. By 2007—three years later—5 per cent of primary schools and 7 per cent of secondary schools had achieved the target. From there, we have managed to raise the levels significantly to 33 per cent of primary schools and 16 per cent of secondary schools.

I agree with the alliance that more needs to be done—absolutely—and I have always said that. The alliance says that we should focus on delivering the commitment by 2014. I want to continue to discuss with Mike Russell, the Cabinet Secretary for Education and Lifelong Learning, with the Convention of Scottish Local Authorities and with the alliance how we ensure that we deliver two hours of PE, which is an important element—as are other elements—of sport and physical activity. We want to make more progress and certainly more progress than was made between 2004 and 2007.

Ross Finnie (West of Scotland) (LD): With Frank McAveety and others, I was present at the alliance’s launch. That was an important event for Scotland, so I was surprised by the absence of sportscotland and of any reference to it. I was more surprised when I checked that sportscotland’s mission is

“to encourage everyone in Scotland to discover and develop their own sporting experience, helping to increase participation and improve performances”,

which is exactly what the alliance’s launch was about.

Will the minister explain the absence of sportscotland and of references to it? Was that an act of dereliction by sportscotland officials or was it somehow in furtherance of a direction from the Scottish ministers?

Shona Robison: Absolutely no direction came from the Scottish ministers for sportscotland not to attend that event. Sportscotland was active at the reception on Tuesday night. It is keen to work with the alliance and has supported the alliance in coming together. Sportscotland and we are the very people who have told members of the sporting community that they should come together with one voice to further the aims of sport. We are pleased that they have listened to that and done that. Sportscotland has supported what the alliance is doing and is in discussions with the alliance, which will continue as we progress important developments that will happen in the coming months and years.

Fuel Poverty

5. Johann Lamont (Glasgow Pollok) (Lab): To ask the Scottish Executive what progress has been made in tackling fuel poverty. (S3O-9475)

The Minister for Housing and Communities (Alex Neil): The Scottish Government is fully committed to meeting its objective to ensure as far as reasonably practicable that people in Scotland are not living in fuel poverty by November 2016. The energy assistance package, which is aimed at households that are in fuel poverty, is contributing to that. By the end of December, that new programme had helped more than 56,000 people in more than 33,000 households.

However, that is only part of the story. In July 2008, the rate of fuel poverty in Scottish households had risen to just under 27 per cent, because energy prices rose by about 13 per cent in the previous year, whereas incomes rose by only 2 per cent. I will continue to press Westminster and the Office of Gas and Electricity Markets for urgent action to reduce fuel poverty through benefit income and energy price policy. I am sure that all MSPs will support that.

Johann Lamont: Does the minister share my concern about how the energy assistance programme is being run? One reason for my concern is the significant underspend—I understand that only £20 million from a budget of £60 million has been spent. Will he, as a matter of urgency, review the way in which stage 4 referrals are being handled? I refer in particular to the figures that were revealed in answer to a parliamentary question on the subject from Duncan McNeil. Those figures showed that, of 599 appeals against the decision to reject an application, 529 were upheld. That stunning figure calls into question the assessment process. Given that many people whose applications were rejected may not feel able or confident to pursue an appeal, how will the minister ensure that people—past, present and future—who are

entitled to a central heating system can secure one?

Alex Neil: The number of central heating installations to the end of December was 5,500. The number of households that received insulation was 3,594, of which 2,462 were installations that arose from referrals this year.

By definition, a low number of successful appeals suggests that we are selecting the right people for the programme—those in fuel poverty—and not rich, retired bankers as happened under the old programme.

NHS Fife (Meeting with Chief Executive)

6. Iain Smith (North East Fife) (LD): To ask the Scottish Executive when the Cabinet Secretary for Health and Wellbeing last met the chief executive of NHS Fife. (S3O-9551)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): I last met the chief executive of NHS Fife, together with other NHS board chief executives, on 20 January 2010. I also met the chief executive when I chaired the NHS Fife annual review in Dunfermline on 18 January 2010.

Iain Smith: The cabinet secretary may be aware that Fife has been dubbed the Ritalin capital of the United Kingdom. In September 2008, the National Institute for Clinical Excellence and the national collaborating centre for mental health recommended that drugs such as Ritalin and Concerta should be used as front-line treatments only when severe attention deficit hyperactivity disorder is diagnosed or other options have failed. The latest NHS figures for Scotland show that Fife is prescribing at 247 prescribed items per 1,000 population aged five to 14, which is twice the Scottish average for ADHD drugs. Will the cabinet secretary raise the issue as a matter of concern with the chief executive of NHS Fife and ask for a review of the treatment methods for ADHD in Fife?

Nicola Sturgeon: We are aware of variations across the country in prescribing patterns for Ritalin. As Iain Smith will acknowledge, it is for clinicians to prescribe; they have to do that based on the judgments that they make. As a Government, we are trying to develop alternatives to drugs such as Ritalin, one example of which is psychological therapies. A lot of work is going on in the area.

I acknowledge the seriousness of the issue that Iain Smith raises and am happy to have further discussions with NHS Fife to see whether there is more that it can do locally.

Measles, Mumps and Rubella Vaccination

7. Rhona Brankin (Midlothian) (Lab): To ask the Scottish Executive what its position is on the MMR vaccination. (S3O-9459)

The Minister for Public Health and Sport (Shona Robison): The Scottish Government's position on the MMR vaccine is that it is an important part of the routine childhood immunisation programme. It is the safest way in which parents can protect their children against measles, mumps and rubella.

Rhona Brankin: The minister will be aware that the General Medical Council ruled in January that Dr Andrew Wakefield, the lead researcher in the discredited study that linked the MMR vaccine to autism, showed callous disregard for children and acted dishonestly when carrying out his research. She will also know that the journal that published the study has accepted that claims of a link are false. Despite the overwhelming body of scientific evidence that the combined MMR vaccine is safe, the minister did much in her years on the Opposition benches to erode public confidence in the vaccine, including supporting the call in motion S1M-1168 for a moratorium on its use. Does she now regret that error of judgment? Will she apologise to Scotland's parents for her scaremongering on the issue?

Shona Robison: The issue is far too important for the member to degrade it in those terms. The recent ruling is a matter for the General Medical Council. Our role is to ensure that as many parents as possible protect their children in the safest way by ensuring that their children receive the MMR vaccine.

I am happy to say that my daughter received the MMR vaccine. Perhaps other leading politicians should have said the same thing about their children. That could have done a lot to encourage others in the public to follow their lead.

The Deputy Presiding Officer (Trish Godman): Question 8 was not lodged.

Health Protection Scotland (Meetings)

9. Andy Kerr (East Kilbride) (Lab): To ask the Scottish Executive when ministers last met representatives of Health Protection Scotland. (S3O-9474)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): The most recent meeting between representatives of Health Protection Scotland and the Scottish ministers took place on 26 January this year, when I met HPS representatives to discuss hospital-acquired infections.

Andy Kerr: The cabinet secretary and her colleague may have chosen at that meeting—or

may choose at a future meeting—to reflect on their past views on MMR. They supported a campaign for single vaccines and called for investigations and moratoriums. Was it an act of duty or judgment, or simple exploitation of parental fears, when the cabinet secretary chose to muddy the waters substantially during that debate? Is she prepared to do at least one constructive thing in the matter—to organise a catch-up campaign for those who may have missed out on vaccination, a situation which is partly her responsibility?

Nicola Sturgeon: Andy Kerr should know that vaccination rates in Scotland are very high; that is important, and all MSPs should welcome it. As Shona Robison said, members can and will continue to disagree about very many issues; that is legitimate and is the stuff of political debate. However, I hope that all of us can rise to the occasion and agree not to engage in party-political debate about an issue as important as childhood vaccination. That is what is really important. All responsible MSPs should agree to get together on the issue, instead of trying to sow party-political divisions.

Patient Transport Services

10. John Wilson (Central Scotland) (SNP): To ask the Scottish Executive what procedures are in place to monitor the effectiveness of patient transport services, especially in relation to visits to accident and emergency departments. (S3O-9504)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): The Scottish ambulance patient transport service undertakes nearly 1.6 million journeys every year, the majority of which are for planned appointments at hospitals and clinics. The patient transport service also supports the transfer of patients to and from accident and emergency departments when it is clinically appropriate for it to do so. The Scottish Government and the Scottish Ambulance Service monitor the effectiveness of the patient transport service in a variety of ways, including through the formal NHS annual review process, local delivery plan targets, reporting to the Scottish Ambulance Service board and weekly monitoring by the Scottish Ambulance Service executive team.

John Wilson: What lessons were learned during the periods of extreme weather conditions that we have suffered in the past couple of months? Was patient transport maintained during the periods of severe weather? What measures have been put in place for patients who miss appointments due to the failure of patient transport services to pick them up? How are those appointments rearranged?

Nicola Sturgeon: I thank John Wilson for raising an important issue. Everyone is aware that the Scottish Ambulance Service was under significant pressure during the recent period of cold weather. Because of that, in certain parts of the country there were times when the patient transport service was disrupted for some patients. The focus was on ensuring that the most vulnerable patients were given the highest priority. However, because staff and, in some cases, vehicles had to be diverted to support the accident and emergency service, disruptions were unavoidable in some cases. That said, the Scottish Ambulance Service coped admirably during the period of cold weather. It was under significant pressure, but the various measures that it put in place to respond to that pressure worked well. Everyone working in the service is to be congratulated on their efforts.

It is absolutely regrettable if any patient misses an appointment because of a failure of the patient transport service. Understandably, people get focused on the emergency part of the work that the Scottish Ambulance Service does, which is vitally important, but many more patients experience the service through the patient transport service. I have said previously and will say again that there have been—and still are—issues with the reliability of the service. The Scottish Ambulance Service is working extremely hard to improve matters, to ensure that the patient transport service responds to those who have a genuine clinical need for transport. It is working collaboratively with territorial NHS boards to improve transport arrangements to and from hospitals more generally. That important work is on-going. I hope that we will see in the patient transport service the improvements that we have seen consistently in the emergency part of the Scottish Ambulance Service's work.

Rhoda Grant (Highlands and Islands) (Lab): The minister is aware of the problems that are experienced in many parts of the Highlands due to an inadequate patient transport service that lacks both resources and staff. What is she doing to rectify that position so that patients in those areas who miss appointments day and daily do not continue to do so?

Nicola Sturgeon: As I just said, the Scottish Ambulance Service is putting in a great deal of effort to ensure that the patient transport service is reliable. As with other parts of the health service, the challenges are even greater in some of the remotest and most rural parts of the country. One of the issues that the Scottish Ambulance Service has faced up to—and it is not always easy to face up to this—is in ensuring that its services are used for those who have a clinical need for transport rather than for people who have a need for transport perhaps because of distances or a lack

of other transport. The Scottish Ambulance Service is working with territorial NHS boards to help improve provision for the latter.

The Government has never tried to hide away from the problems in the Scottish Ambulance Service. For example, single manning in the emergency service has been an issue for many years in the Highlands and other parts of Scotland, but a substantial investment of resources is well on the way to solving that problem. We will continue to face up to such problems and to support the Scottish Ambulance Service in its work.

Sandra White (Glasgow) (SNP): Will the minister join me in welcoming the provisions in the Public Services Reform (Scotland) Bill to regulate private ambulances, which I have long campaigned for? Does the minister have any idea of the timescale envisaged for its implementation?

Nicola Sturgeon: Sandra White is correct to say that it is important that we have that regulation, and the bill will give us the opportunity to do so. With her permission, I will happily write to her with the details of the timescale for implementation.

Health Care Associated Infections

11. Dr Richard Simpson (Mid Scotland and Fife) (Lab): To ask the Scottish Executive what discussions it has had with regard to changes in testing for health care associated infections. (S30-9492)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): Discussions take place between Scottish Government officials, Health Protection Scotland, the Scottish microbiology forum and the Scottish national clostridium difficile reference laboratory on an on-going basis to ensure that testing for C diff infection reflects best practice and conforms to European recommendations. The chief nursing officer issued new guidance last month on testing for C diff for implementation by all microbiology labs across Scotland.

Dr Simpson: On 25 November, following the outbreak in Dundee, I asked about the rapid polymerase chain reaction test that was being used in Dundee for pathogenic C difficile. I am pleased that the new algorithm on C difficile testing now includes PCR. Does the cabinet secretary agree that the standard ELISA test that has previously been used as a screening test is no longer fit for purpose? Can she tell me whether the ELISA test is still the initial screening test for the new algorithm, which is a two-stage test? If that is the case, will she publish the detail of how and why the experts are still of the view that two-stage testing is required, rather than PCR testing alone,

as is increasingly the case in the United States? Can she assure me that one of the three available PCR tests will very quickly be in use across Scotland?

Nicola Sturgeon: The ELISA test, as Richard Simpson will know but other members may not, is a biochemical technique used mainly in immunology to detect the presence of an antibody in a sample. As I said, the chief nursing officer issued new guidance last month on the testing for C diff for implementation by all labs. The consensus behind that guidance follows the evaluation report “*Clostridium difficile* toxin detection assays”, which was published in February last year by the NHS Purchasing and Supply Agency. It recognises the shortcomings in current testing methods and recommends a two-step testing algorithm for provisional positives. NHS Scotland has advised the use of testing kits as recommended by the agency in its 2009 report. I am more than happy to enter into more detailed correspondence with Richard Simpson on some of the more technical details of the issue.

Eating Disorder Services (Children and Young People)

12. Alison McInnes (North East Scotland) (LD): To ask the Scottish Executive what progress has been made in developing eating disorder services for children and young people. (S3O-9545)

The Minister for Public Health and Sport (Shona Robison): Caring for people of all ages with mental health problems, including children and young people, is a priority for the Scottish Government. It is vital that all children and young people, including those with an eating disorder, have access to high-quality mental health services when they need them. When that need is urgent, that already happens immediately in most cases. To address delays in planned access to specialist child and adolescent mental health services, we have a new waiting time target that means that, by March 2013, no one will wait longer than 26 weeks from referral to treatment. That timetable is supported by our additional investment of £5.5 million more each year in CAMHS by 2011-12.

Alison McInnes: Early treatment and counselling can prevent more significant problems from developing, especially in relation to eating disorders. It is important for a person’s recovery that they get appropriate support as soon as possible, because behaviours that become ingrained can be hard to alter. Does the minister believe that NHS boards are making sufficient progress in driving down waiting times for access to child and adolescent mental health services? When will she be in a position to announce targets for access to psychological therapies?

Shona Robison: On the last point, we are still working around the access target for psychological therapies, and I am happy to keep Alison McInnes posted about that.

I agree with Alison McInnes about early treatment and counselling. That is why we have made it clear to boards that they must make progress around child and adolescent mental health services. It is fair to say that some boards are further along the road than others, but I assure the member that this is a high priority for us and that we will continue to press boards to make the necessary progress.

Mary Scanlon (Highlands and Islands) (Con): To assist children and young people with eating disorders, will the minister tell us how many schools or local authorities in Scotland have introduced annual health and fitness checks to identify health problems at an early stage, to be delivered by

“a doubling of the number of school nurses”—

all as promised in the SNP manifesto?

Shona Robison: I am sure that Mary Scanlon will welcome the 16 per cent increase in the number of school nurses that has been delivered since 2007. However, as I have also made clear, the evidence suggests that the best support for children in the school environment is multidisciplinary, and although the school nurse has a critical role, other roles are important, such as the mental health support role. I am sure that Mary Scanlon will agree with that. If that is what the evidence tells us, we should listen to the evidence, which is why we are testing a school-based health resource involving a number of disciplines, including mental health, in considering how best we can support the children concerned within the school environment. I am sure that Mary Scanlon will welcome that, and I am happy to keep her updated on progress on the test sites.

Personal and Nursing Care (Adults with Disabilities)

13. Sarah Boyack (Edinburgh Central) (Lab): To ask the Scottish Executive, further to the answer to question S3W-27069 by Nicola Sturgeon on 17 September 2009, in light of the almost 75 per cent of consultation responses that raised concerns about applying national standard eligibility criteria and waiting times for personal and nursing care to adults with disabilities, what it means by saying that the criteria “should apply to older people in the first instance”. (S3O-9458)

The Minister for Public Health and Sport (Shona Robison): The guidance on national eligibility criteria and waiting times for the personal and nursing care of older people delivers on the recommendation arising from Lord Sutherland’s

review of free personal and nursing care for older people. It is recognised that some councils might choose to apply the eligibility criteria framework that is set out in that guidance to other community care groups. However, that is a matter solely for individual councils, and it is not tied in any way to the agreement between the Scottish Government and council leaders on free personal and nursing care.

The Scottish Government's guidance for measuring outcomes for people with learning disabilities to inform the planning and delivery of services is still under review. The guidance will be finalised and issued soon.

We are currently consulting on a national strategy for self-directed support, which recognises the importance of providing preventive and low-level support that allows people to remain as independent as possible. During the implementation of the strategy we will work with the Convention of Scottish Local Authorities to review and clarify, where necessary, the use of eligibility criteria for adults and older people with a view to considering how self-directed support for preventive measures and lower levels of need is delivered.

Sarah Boyack: Is the minister not aware that, while we wait for that new guidance to come out, local authorities are viewing the phrase "in the first instance" as a green light to apply the criteria to vulnerable adults with disabilities; that constituents in my area of Edinburgh are deeply worried that that is being used to withdraw support from people who receive day-care services and respite and community support; and that family carers for people with learning disabilities will now be forced to spend longer caring for their relatives at the expense of their own health?

We need clear, specific advice from the minister, as local authorities will go ahead and apply criteria for older people to groups to which they clearly were not meant to apply. There is real concern on the part of organisations such as the Garvald action group and Learning Disability Alliance Scotland. When will the minister get the new guidance out?

Shona Robison: I recognise Sarah Boyack's concerns. Following the highlighting by the consultation process and the subsequent discussions with COSLA of the emergence of a number of issues, it was agreed that the guidance would apply only to free personal care clients, as would the six-week waiting time.

I understand that there is a sense of urgency, but it is important that we get the guidance right. We will certainly work on that and on getting the guidance out as soon as possible. I will be happy to keep Sarah Boyack apprised of the timescale.

Female Offenders in the Criminal Justice System

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S3M-5679, in the name of Margaret Mitchell, on the Equal Opportunities Committee's report on female offenders in the criminal justice system.

14:56

Margaret Mitchell (Central Scotland) (Con): The treatment of female offenders in the criminal justice system is a subject that attracts diverse opinions. The Equal Opportunities Committee's starting point was not to go over well-rehearsed and stale arguments, but to consider the experience of women in prison and whether prison provides effective treatment and rehabilitation programmes to female offenders, including women with mental health problems. Part of the committee's remit was to look at the backgrounds of female offenders, the services that are available to them in prison, the support that they are provided with when they are released and the role that that plays in preventing them from reoffending.

At a time when the committee system and committees are under the microscope and sometimes attract criticism for being partisan in the decision-making process, I thank past and present members of the committee for concentrating exclusively on the compelling issues that emerged during the inquiry. My thanks, too, go to the committee's clerks, who have done a superb job in putting the report together. The committee is further indebted to all those who provided written and oral evidence for its inquiry, especially the people who facilitated our visits to Cornton Vale prison, to the 218 centre in Glasgow and to Hydebank Wood prison in Belfast.

Rather than looking in detail at complex legal matters, the committee's inquiry focused on equal opportunities issues and areas in which the committee considered that practical improvements could be made. For the avoidance of doubt, I say that although the inquiry focused on female offenders, that does not mean that the committee considered that female offenders should be treated more favourably or that it was not interested in male offenders.

A number of witnesses confirmed that female offenders in Cornton Vale tend to have specific problems, such as chaotic lifestyles, significant mental health problems and alcohol and drug addictions. Many are also victims of physical or sexual abuse, have suffered mental cruelty in childhood or have been involved in prostitution. It

was pointed out that because women are much more likely to have responsibility for the care of their children and are more likely to hold the tenancy of their homes, imprisonment may have a greater impact on them than it does on men. Those complex issues, coupled with the increase in the number of women in Scotland who come into contact with the criminal justice system, meant that the committee's inquiry was timely.

The committee noted that the Scottish Government is committed to reducing the number of custodial sentences of six months or less, but it considers that more could and should be done to rehabilitate women who are currently in prison, particularly those who are serving short-term sentences and those who are on remand. The fact that that is not happening was confirmed to the committee by a former prisoner, who was told that she was not allowed to take part in education classes in Cornton Vale because she was not in prison for long enough—her sentence was seven months. The committee is firmly of the view that more support needs to be offered to short-term offenders, not just in prison, but when they leave it, as support is currently offered only on a voluntary basis.

A key area of consideration in the committee's inquiry was prisoners with mental health problems. One of the more serious criticisms made during evidence to the committee was that some women should not have been in prison because their mental illnesses were so severe. The director of health and care at the Scottish Prison Service, Dr Andrew Fraser, told the committee that, of the 80 per cent of women in Cornton Vale who may have mental health problems, 1 to 2 per cent should be in hospital rather than in prison. I hope that, in his response, the Cabinet Secretary for Justice will consider the worrying fact that there might not be sufficient alternative capacity outwith Cornton Vale to support those women.

In evidence, Dr Andrew McLellan—a former chief inspector of prisons—referred to a previous report of his that said:

“twice as many female prisoners as male prisoners pro rata suffer severe and enduring illness”.

Despite that, the chief executive of the SPS has said that Cornton Vale's interventions

“do not deal radically with people's underlying problems.”

Furthermore, there needs to be a re-examination of the information that is available to courts when women with mental health problems are sentenced. Criminal justice social work departments are often understaffed and under pressure, and there is real concern that they are not properly equipped to carry out that function. Courts too often rely on the defence lawyer to

provide that information. That is clearly totally unsatisfactory.

Families Outside identified a gap in provision in respect of the courts not having community-based options to which to refer women, pending the preparation of medical reports. In turn, that leads to women being remanded in custody, often for their safety. That issue's being addressed could help to minimise the number of such women who are imprisoned, and could result in the availability of more resources for rehabilitation in prison. Consequently, the committee considers that improvements must be made to the support that is provided to female offenders with mental health problems, both in prison and in the community.

The committee is concerned about the prevalence of illegal substances in Cornton Vale. The Scottish Prison Service may aim for women to be free of drugs, or for drug use to be stabilised in prison, but it is evident that, to date, that has been no more than an aspiration. Surveys of prisoners in Cornton Vale reveal that 38 per cent have substances in their system on leaving prison. The committee recognised the complex challenge of eradicating drug taking, but pointed out that institutions that are comparable to Cornton Vale have significantly reduced drug use using non-intrusive methods, and considered that the SPS should learn from that best practice.

The committee also learned that drug taking in prison has wider consequences. Women who take drugs in Cornton Vale are punished by not being allowed to see their children on visits. The committee considers that the rights and interests of the child are paramount and that children should not be denied visiting rights, other than when a visit may place them at risk.

During its visit to Hydebank Wood prison in Belfast, the committee was impressed by a recently installed facility that allows children to visit their mothers in a more natural setting. The committee is concerned about the poor quality of the existing facilities for visiting at Cornton Vale, and seeks to establish what specific action will be taken to upgrade them.

The committee was also alarmed to learn that about half the children of female prisoners end up in prison. Efforts need to be concentrated on preventing the passing on of offending behaviour from one generation of a family to the next. The Government should consider carefully the merit of implementing family addiction programmes for female offenders, and how better support can be provided to the children of female offenders.

The inquiry identified a gap in provision of speech and language therapy at Cornton Vale. Statistics from the Royal College of Speech and Language Therapists show that 44 per cent of

women in the criminal justice system have communication difficulties. Good communication is vital; therefore, the committee believes that a pilot speech and language therapy programme needs to be made available at Cornton Vale.

During the inquiry, some women were transferred to Greenock prison, and the committee learned that the proposed new Grampian prison will hold female prisoners. The committee is aware of legal challenges on equal opportunities grounds in other jurisdictions after women had initially been centralised in one prison but were then dispersed and it was no longer possible to provide specialist support. The committee seeks an assurance from the Scottish Government that that issue is being addressed in finalising the plans for the Grampian prison. An equality impact assessment should always be undertaken by the Government when decisions about prison build are being made, in order to ensure that the provision of women's services in Grampian and elsewhere are never merely an add-on to male provision.

Despite the increase in the female prison population, a woman who offends is far more likely to receive a community penalty than to receive a prison sentence. The committee received a lot of written evidence that was critical of community penalties as having been developed primarily for male offenders and, therefore, not always appropriate for female offenders. That makes it more likely that women offenders will breach penalties and end up in prison by default. The committee notes that the community payback order—the proposed replacement for existing community penalties—appears to take account of gender differences between men and women.

Robert Brown (Glasgow) (LD): Is Margaret Mitchell aware that only 26 per cent of female offenders reoffend within two years after they have served community sentences?

Margaret Mitchell: I take that on board. However, the committee definitely thought it unacceptable that the vast majority of community service orders are simply not appropriate for females. I hope that the cabinet secretary will take that point on board.

The committee visited the 218 centre in Glasgow, which provides excellent social and health care services to women who have been referred by agencies that are directly involved in criminal justice. Women benefit there from using the residential unit and the day programme. The service received praise from several witnesses during the inquiry, including the sheriffs who gave an informal briefing to the committee and who said that an equivalent in Edinburgh to the 218 centre would be “a welcome disposal”. The committee recommends that the type of service that the centre provides be replicated in other parts of

Scotland where there is demand, and that consideration be given to expanding the service to women who are at risk of committing crime.

A specific issue that came up in the inquiry related to disclosure, in certain areas of employment, of spent convictions for prostitution. The committee was not content with the cabinet secretary's response on the point and has agreed to consider lodging an amendment to the Criminal Justice and Licensing (Scotland) Bill at its meeting on 23 February.

The committee is encouraged by the fact that, in January, the Cabinet considered the inquiry report and committed funding in support of some of its recommendations. I believe, therefore, that the inquiry has already made a useful contribution on a compelling and complex issue. However, there is still much that could and should be done to improve the provision of support for women who offend and who are at risk of offending. That will require leadership, especially given the somewhat complacent responses that were received from the SPS to some of the report's recommendations. It is the responsibility of the Cabinet Secretary for Justice and the Scottish Government to ensure that meaningful progress is made.

I have much pleasure in moving,

That the Parliament notes the conclusions and recommendations contained in the Equal Opportunities Committee's 3rd Report 2009 (Session 3): *Female offenders in the criminal justice system* (SP Paper 332).

15:08

The Cabinet Secretary for Justice (Kenny MacAskill): I welcome the debate and the findings of the report by the Equal Opportunities Committee, “Female offenders in the criminal justice system”. I also welcome the committee's convener's fair and balanced points. I thank the committee for its comprehensive and balanced report, which reflects many of the key issues that we have identified for improving management of women offenders both in prison and in the community. We must improve access to health services for those women in order that we meet their wide-ranging and—as Margaret Mitchell pointed out—complex needs. We can provide better learning opportunities to enable them to improve their literacy, numeracy and employability skills so that they can move on in their lives. We should also do more for women on short-term sentences and for those who are held on remand, so that they can be better engaged in productive activities, and we must provide better support for women who are leaving prison to help them to reintegrate into the community.

The SPS and the governor of Cornton Vale have said that they recognise the challenges that have

been set for them by Her Majesty's inspectorate of prisons. It is appropriate that people also realise the challenges that they face and the comments that the governor made about the difficulties that they face because of the number of short-term prisoners.

This issue is not about providing better treatment to women than we do to men; it is about delivering equality of outcomes for the women who for many reasons find themselves in the criminal justice system or participating in interventions that were historically designed around the needs of men—a point that was made by Margaret Mitchell. We need to work harder to deliver better services and equality of outcomes for women, even with the current pressures of the increased prison population.

Her Majesty's Prison Cornton Vale was opened in the 1970s to provide a central belt prison for women. It has a design capacity for a population of 375. The number of women offenders in prison has risen sharply and disproportionately. Although still a very small proportion of the total prisoner population, the number of women prisoners has almost doubled over the past 10 years—even though, as some people will be sick of hearing me say, we have the lowest recorded crime in almost 25 years. The daily population now hovers around 400. We also have women prisoners at Gateside in Greenock. Over that same period, the number of women who have been convicted of assault and drug offences has risen. That is deeply concerning and I have consequently commissioned research to obtain comprehensive and current data on the factors that are driving that rise in the women prisoner population. It would be remiss of me not to point out that the historic view that the problem is all to do with drugs is now being balanced out by an understanding of the increasing problem that is caused by abuse of alcohol.

Our understanding of the needs of women in the criminal justice system has improved in recent years. As the committee pointed out, women offenders are more likely to be parents of children in care, so the impact on the next generation is disproportionately high. Margaret Mitchell pointed out the shameful facts around the number of children of women offenders who go on to become prisoners themselves. We have to break that cycle of crime. The links between women's offending and experience of difficult relationships, violence and abuse are well established. Many women in prison are to be pitied, even though, in many instances, they must also be punished.

The health problems of women offenders are recognised to be more complex and wide-ranging than those of men. I understand and share the concern of the Equal Opportunities Committee at the prevalence of diagnosable mental health

problems in prison. That is a matter that afflicts all the prison estate—it is gender neutral. However, there is a significantly higher proportion of people with diagnosable mental health problems in Cornton Vale than there is in many other prisons, and there are often clear links to abuse that those women have experienced in the past.

Hugh O'Donnell (Central Scotland) (LD): The cabinet secretary said that the mental health issue is gender neutral, but then said that it affects a higher proportion of women prisoners. Could he clarify the position?

Kenny MacAskill: I am saying that there are many people in our prison system—male and female, young and old—who have mental health problems. I am also saying that there are greater numbers of those people in the women's prisons than in the men's prisons. However, all prisons have problems with mental health issues. I do not know whether that clarifies matters for the member.

Hugh O'Donnell: Not quite.

Kenny MacAskill: I find it difficult to explain. In a nutshell, for the benefit of Mr O'Donnell and Ms Lamont, who clearly has problems herself with what I am saying, male prisoners and female prisoners suffer from mental health issues, but women suffer disproportionately more. I do not know whether that can be any clearer.

Many of the health issues that are experienced by women offenders are linked to drug addiction and—as I and other members of the cabinet will never hesitate to point out—abuse of alcohol. We are tackling those issues across all portfolios, and seek the support of all parties in that regard.

Johann Lamont (Glasgow Pollok) (Lab): If it is the case that a disproportionate number of women in prison have mental health problems, in comparison with men, should not part of policy be to ask why that is the case? That way, we could ensure that we have a gendered approach to tackling the problem. If we are to eradicate the problem, we must understand not just that there is a difference but why that difference exists.

Kenny MacAskill: I do not know whether Johann Lamont has yet managed to visit Cornton Vale—I know that she was a minister for a shorter time than I have been one. From my numerous visits there, I understand that the issue is not simply that many of the women have mental health problems. As Margaret Mitchell pointed out, such problems are compounded by the fact that many female offenders have addiction problems or have been the victims of domestic violence or of violence and abuse in their childhood. Some mental illnesses are more clearly diagnosable than others, and such problems often relate to other matters. For example, alcohol or drug addiction

fuels and causes mental health problems, but can also mask them.

I am encouraged by the high uptake by women of the less intensive version of the drug treatment and testing order that is currently being piloted in Lothian and Borders. It is targeted at women and young offenders who tend to have less extensive criminal histories than their male counterparts.

The programme to bring prisoner health care into the national health service is a major initiative that will allow prisoners to be treated in one system and will ensure continuity of care for males and females who are leaving prison. The committee expressed a desire for that to happen earlier, but it is a complex project that needs—as I am sure members agree—to be planned and executed well to ensure that when it kicks in, it works smoothly and appropriately.

We are continuing to improve engagement between the justice and health sectors at national and local levels in order to provide offenders with equal access to mainstream services. The community justice authorities are working hard to encourage health and justice services to work together in the community to ensure that offenders' needs are addressed. Offender health issues will be included in the remit of the reconvened ministerial task force on health inequalities. Our objectives to reduce reoffending and improve public health are interwoven.

My cabinet colleagues are committed to ensuring that health and other issues that affect women in the justice system are addressed, which will include taking joint action to follow up the recently published report of the independently chaired offender learning working groups. We will seek to ensure that learning, skills and employability opportunities can be maximised for women offenders. Improvement of literacy and numeracy skills will be a priority, and we are ensuring that the tools that are introduced to facilitate identification of needs are gender appropriate.

Women offenders can be at their most vulnerable at points of transition, so agencies must get better at co-ordinating support for women who are leaving prison or completing community orders so that the good work to address needs and to motivate women to take charge of their lives is not lost. It is crucial that any interventions to address complex needs are tailored to the individual.

Throughout the committee's inquiry there has been much debate about the pros and cons of community-facing prisons as opposed to a national establishment. Although a specialist women's prison such as Cornton Vale is essential for some women, being close to home and maintaining links with family and with community-

based services can offer benefits for women in terms of reintegrating them back into the community from which they came. I have therefore asked the Scottish Prison Service to work with the northern community justice authority and other partner agencies to enable a small number of prisoners who are serving short sentences, or long-term prisoners who are nearing the end of their sentences and who are willing and have been assessed as suitable, to move from Cornton Vale to Inverness and Aberdeen. That will locate them nearer to home and allow access to, and engagement with, services in the community.

That work will inform delivery of our longer-term strategy for management of women offenders and their transition back into the community. It will also inform the piloting of the new community-facing prison regime that has been planned for HM Prison Grampian in Peterhead. I have announced additional funding of £100,000 for each community justice authority to provide additional capacity as further investment to support women offenders and reduce their risk of reoffending.

Progress continues to be made in relation to the Criminal Justice and Licensing (Scotland) Bill on the provisions for the new community payback order, which can and must be tailored to meet the specific needs of individual female offenders.

I look forward to the debate and I welcome the Equal Opportunities Committee's contribution and the manner in which it was delivered by the committee's convener.

15:19

Richard Baker (North East Scotland) (Lab): I welcome today's debate on female offenders in our justice system and congratulate the Equal Opportunities Committee on its scrutiny of the issue and its excellent report. The timing of the debate is opportune, as it follows the first report that has been published by Brigadier Hugh Monro, the chief inspector of prisons, on HMP Cornton Vale. The recommendations in his report echo a number of the concerns that the Equal Opportunities Committee has raised.

The Parliament will debate the wider issues of approaches to sentencing, but both the committee's report and Brigadier Monro's inspection report present us with the key issues in dealing with female offenders. We must consider the particularly disruptive impact that there can be on the lives of families and the specific problems that female offenders have, which require specific approaches.

The inspection of Cornton Vale highlighted the particular pressures on facilities there. It deals with a prison population that overwhelmingly has significant substance misuse problems as well as

other problems that have contributed to the women's offending behaviour. The inspection report concludes that prisoners should be assessed for programmes to address offending behaviour and then provided with relevant programmes. I am sure that we all endorse that.

The committee's report concludes that more could and should be done to rehabilitate women in prison, particularly those who are serving short-term sentences and those who are on remand. I hope that the Scottish Government will make progress on that. It states in its response to the report that, in respect of a number of areas, it will look at some of the innovations at Hydebank Wood prison in Belfast, which the committee identified as examples of good practice. That is to be welcomed.

However, I would like more information about the voluntary transfer of female prisoners to Inverness and Aberdeen. There will be a significant resource issue for the facility in Aberdeen because it does not have in place the provision and facilities to deal with that. On community-facing prisons, there are wider debates about the plans for HMP Grampian as well.

The Minister for Community Safety (Fergus Ewing): Porterfield prison in Inverness formerly took female prisoners. One reason why that ceased is the general overcrowding of prisons. Does Richard Baker agree that the fact that overcrowding is now such a huge problem makes it far more difficult to cater for female prisoners and to provide all prisoners with the extra services that the Equal Opportunities Committee highlights, such as speech and language therapy, an issue on which I met—

The Deputy Presiding Officer: That is enough, minister. Thank you.

Fergus Ewing:—a number of the key players yesterday.

Richard Baker: I am losing time here. The important point, though, is that the minister is looking to transfer prisoners to Craiginches in Aberdeen, which I know well. Female prisoners used to be accommodated there, but the accommodation is not adequate and has not been used for a long time. Unless there is investment in the transfer, it will not be adequate now. We need further information on that from the Scottish Government.

The committee highlights the challenges of dealing with the problems of many female offenders in terms of mental health issues—which affect a disproportionate number, as I think we have clarified—substance misuse problems and illiteracy. On mental health issues, the committee rightly discussed the need to improve access to appropriate services. It rightly acknowledges the

challenges in dealing with addiction problems, but it also considers the need to look at new ways in which to help offenders to tackle their addictions, not only while they are in prison, but on their release and beyond. Again, those points are echoed in the inspection report.

We have highlighted on other occasions the shocking illiteracy rates in our prison population, and the committee flags up a lack of literacy and numeracy as a particular problem among female offenders. Indeed, it calls for a speech and language therapy programme to be established at Cornton Vale. I have doubts about whether a similar scheme would be put in place for prisoners who would go to Aberdeen under the Government's plan. However, in all those areas, further action will contribute to tackling reoffending, as will action to ensure that offenders are on appropriate programmes and are engaged in activities while in custody.

Another key issue with regard to rehabilitation must be female offenders' access to their families—particularly their children. There is a strong theme in the report that children must be allowed appropriate access to their mothers because they should not be penalised for their mother's offences, but the issue is also about maintaining relationships to enhance the chances that the mother will not reoffend. The committee is right to ask for an exploration of ways in which children can have longer visits to their mothers in prison. Although drug misuse in prison should not go unpenalised, the committee is right to suggest that the withdrawal of visiting rights is not the right penalty because it affects the children as well. Other penalties need to be explored.

The committee also covers community sentences for female offenders. We want to see more use of drug treatment and testing orders and alcohol treatment and testing orders for appropriate offences. A further point, which Margaret Mitchell mentioned in her speech, is the need for female-oriented community sentences. A woman who has child care responsibilities might have a legitimate reason for being unable to be at a specified place at 8 in the morning to fulfil an order, yet she will be at a greater risk of breaching the order and ending up in jail. That should not be happening. The community sentencing system as a whole is throwing up huge challenges, but we must ensure that those women get a fair chance to ensure that they do not breach the terms of their orders and therefore end up in custody.

The 218 centre, which was established in the previous parliamentary session, is an example of best practice that brings together all the agencies that can help female offenders to deal with problems such as addiction and to turn their lives around. The committee is right to suggest that

replicating such services throughout the country should be a priority for the Government. With such an approach and with many of the other measures that are set out in the report, we can improve the way in which we tackle the very difficult issues that are associated with female offenders. The fact that the report takes us forward in that respect is to the Equal Opportunities Committee's great credit.

15:25

Bill Aitken (Glasgow) (Con): I congratulate the convener, members and clerks of the Equal Opportunities Committee on producing this report. I am well aware of the amount of time, effort and angst that goes into such pieces of work.

The committee is also right to avoid the obvious bear trap of opening up a debate on the question whether the people in Cornton Vale should be there. I will say this only once, but evidence suggests that, although women commit 16 per cent of the crime, only 5 per cent of them end up in prison. Of course, that issue is not under discussion but, in certain circumstances, sentencers are particularly reluctant to send women to jail—and for sound reasons. Indeed, when I was in that position, I followed the same course.

The committee was quite correct to highlight a number of issues that I believe represent in microcosm problems in the whole prison system. Drugs, for example, are a particular problem in Cornton Vale. I am well aware of the practical difficulties, but we must maintain a determined stance to prevent as much as possible the importation of drugs into our institutions. Many—in fact, practically all—of those in prison have been incarcerated because of difficulties with drugs. If we can ensure that they leave prison drug-free, we will very much reduce the chances that they will reoffend. However, we have quite a lot of work to do on that matter.

The committee's emphasis on mental health issues is also valid, and I accept that there are particular difficulties with women prisoners. Two and a half years ago, I and some of my colleagues on the Justice Committee visited Cornton Vale and, although I was quite impressed with much of what I saw, there was clearly an issue with a number of prisoners who were manifesting mental health problems. If those people had not been locked up in prison, they would have had to be transferred to a hospital establishment. However, some of the people I saw were a danger not only to the wider population but to themselves—one woman, for example, was starting fires—and I have difficulty envisaging the hospital or other national health service facility that would have been able to cope with them. I certainly think that the question has to be addressed.

Angela Constance (Livingston) (SNP): Does Mr Aitken agree that it is wholly unacceptable to send women to prison for their own protection?

Bill Aitken: I stress that in the particular case that I highlighted the person was a problem not only to herself but to others. If she had set a hospital facility on fire, there could have been deaths or injuries. That was the problem that I had: what do we do if someone is not sufficiently restrained from carrying on—

Angela Constance: Will the member give way again?

Bill Aitken: I will.

Angela Constance: Perhaps therefore there is a need for better services, such as medium-secure units, for female offenders who have mental disorders.

Bill Aitken: That is an argument, and there might be a case for that. However, I must press on because other issues were raised.

Dispersal is of significant interest because there will be disruption to the families of women prisoners in particular. Again, I understand the costs and practicalities, and Mr Ewing was quite correct to raise that during his earlier intervention. However, it would be preferable, in the ideal world in which we do not live, if women who come from disparate parts of Scotland could be housed in facilities that lie closer to their families. That will have to be considered in due course, along with all the other financial considerations with which we have to deal.

Fergus Ewing: I am grateful to Bill Aitken for giving way, and for the way in which he makes his point. Does he accept that there is at least a tension between the wish that we all have to provide those extra services and the countervailing pressure of more people being predicted to go to prison, with the consequent need to build more prisons? It is expected that we will need to be able to house an additional 1,500 prisoners unless we change tack on penal policy in this country.

Bill Aitken: The only predictable thing thus far has been the ministerial response. If the story is told often enough, someone will believe it one of these days. As I have said time and again, the safety and security of society and the wider community must be the Government's priority, so I do not accept Mr Ewing's argument for one moment.

Another interesting issue that is raised in the report is the problems that community service orders might cause to women, which might result in a larger number of breaches. If a breach of conditions is referred back to the court, the sheriff should recognise that there might be difficulties.

However, I sometimes think that the enthusiasm for carrying out community service is not what we would wish it to be.

The report is reasonable, has been presented in a reasonable manner, and is a good basis for a debate.

15:32

Robert Brown (Glasgow) (LD): The report by the Equal Opportunities Committee is welcome and timely. Like the recent report on Cornton Vale by HM inspectorate of prisons to which Richard Baker referred, its message is fairly bleak and uncomfortable.

“Cornton Vale is in a state of crisis”,

said the prison inspectors, who identified, among other things, the problems of growing prisoner numbers, overcrowding, long toilet waits, a rising number of self-harm incidents, inadequate opportunities for work and education, long periods of being locked up in cells and unacceptable living conditions. The redeeming features were staff performance, the efforts to maintain family contact and excellent links with community organisations, all of which are important.

When I went to Cornton Vale a few months ago, my main impression was the difference from male prisons. The low-level construction is homelier, there is a greater social work and social approach to the prisoners, and the atmosphere and style are different, which is also welcome. What stuck in my mind was the prison governor telling me that the main challenge is to undo the harm that is done to the women by being locked up in the first place, not least through severance from their families and children. It is against that background that I disagree somewhat with Bill Aitken when he talks about the need to lock people up for their own safety. No doubt, there are elements of that but, frankly, we should be looking for a better system for tackling such issues.

It is clear that many people are in Cornton Vale as much for their own protection as for that of the public. Many of them have had enormously sad lives characterised by drug or alcohol addiction, chaotic lifestyles, lack of skills, horrendous abuse in childhood or adulthood and, above all, mental health problems, which are said to be a factor in 80 per cent of cases. Other members have touched on the statistic that cries out for notice—around half of the children of female prisoners are imprisoned as adults. What a harvest we reap from the historical and on-going failure of public policy to grasp the nettle.

There are many research findings as to the high level of mental health, addiction and other problems among prisoners generally, but I was

struck by the comment of Mike Ewart, the chief executive of the Scottish Prison Service, that the issues are even more prominent among women prisoners who, in addition, face significant resource and domestic issues and are more likely to be the principal carer.

One issue that has not come out in the debate so far is the high number of women remand prisoners. In June 2008, there were 148 on remand and 264 sentenced. I am not sure that that is terribly different from the male balance, but remand prisoners, as with the shortest-term prisoners, do not get adequate access to many of the facilities, or the access does not do much to create a longer-term change of attitude.

The Scottish Government is developing its strategy for women offenders. It is right that the necessary time should be taken to get that right, but it is clear that urgent action must be taken to improve the situation at Cornton Vale significantly and to improve the approach to women prisoners generally. We must consider the priorities. First and foremost, it is necessary to relieve the pressure on numbers at Cornton Vale. I agree with Fergus Ewing's comments on that in an earlier intervention. The priority should be to have more focused facilities in the community in which sheriffs can have confidence.

We all know that there is little public utility and huge cost in imprisoning people, particularly women, for short terms. I hope that we agree throughout the Parliament to give support to the target on that. However, the alternative disposals in the community must be robust, effective and suitable for women, which is a point from the report on which Margaret Mitchell touched. The disposals must be capable of engaging with and changing the negative life situations in which so many of the women exist.

There are good experiences. For example, Glasgow north-west women's centre has taken on some girls on a community order to work in the cafe and do various other things in the project. The boost to self-confidence and the linkage with good female role models has been successful. That is a small-scale project for two or three people, so I do not pretend that it changes the world overnight. However, it is not too difficult to envisage that being multiplied across the board, with many more such projects being brought into play, probably without huge public cost, to try to help. There is a great need for more facilities such as the 218 centre, which delivers targeted, comprehensive and appropriate services to women in the community, rather than in prison.

Secondly, we must consider mental health services, which we all agree are a priority. It is clear that the assessment and court processes miss a lot. It is equally clear that some women

have severe mental illnesses or drug addiction problems that should be dealt with effectively outside the custodial environment, albeit within the confines of a compulsory order and perhaps within confinement more generally. The committee has raised entirely pertinent concerns about the need for improvements in the services that are available in prison and the adequacy of throughcare linkages on release.

Finally, I will touch on family links. Johann Lamont and I were on a panel yesterday that heard strong representations to the effect that, despite compelling research on the vital benefits of the maintenance of appropriate family links, the prison system does not adequately support that. The committee was clearly impressed by the innovative approach at Hydebank Wood prison in Belfast, with its visiting facility. The smaller number of women prisoners and their situation in Cornton Vale present challenges, but that is all the more reason why the Scottish Government should find the means to ensure that the arrangements are as sensitive as possible. We must reduce the ill effects of parental incarceration on the life chances of children if an horrendous repeating cycle is to be avoided.

I commend the committee on its work. The debate will not change Governments or fell ministers and I suspect that it will not receive huge media coverage, but it is important for all that. The Government's response is welcome as far as it goes, but it needs an injection of a little more urgency. I hope that the minister will reflect on the key messages in responding to the debate and that the Government will reflect on those messages further after that.

15:38

Angela Constance (Livingston) (SNP): The Equal Opportunities Committee's report has begun to articulate the different challenges of working with women offenders. However, the report, as well as the Scottish Government response and this debate, should be viewed as only the beginning of the discourse. The committee report ended on a poignant and pragmatic note when it quoted *Sacro*, which stated in written evidence:

"Perhaps too much emphasis has been given in the past to analysing the profile of women offenders rather than devising solutions to the problem."

To give women realistic opportunities to address their offending behaviour is not just an equality issue; it is also about making our communities safer and in many instances creating more secure and stable families.

Politicians need to acknowledge the enhanced vulnerability of women offenders as well as the need to engage effectively with and empower

women to take responsibility for their lives. We do women no favours if we infantilise them and frame our discourse with them purely in the context of their victimhood. No one is above the law. However, as the committee said, we need to understand clearly and address the consequences of the different ways in which women enter the criminal justice system and are subsequently treated.

As we heard, the female prison population has doubled in a decade, whereas the male prison population has increased by only 16 per cent. Front-line practitioners report higher tariffs for women and we know that, historically, women have been more likely to be imprisoned for a first offence. The impact of imprisonment is greater for women than it is for men, because women are more at risk of losing their children and homes, and because women offenders' lives are far more chaotic, as has been frequently reported.

We know that the proportion of male offenders who have drug and addiction problems is high; the proportion is even higher for women offenders, 98 per cent of whom have such problems. It is reported that 75 per cent of female prisoners have experienced childhood abuse. The impact of such abuse, domestic violence and mental health and addiction problems is profound and is most acutely exemplified by women who enter prostitution. The underlying seam, of course, is the comparative powerlessness of women in society.

I am pleased that the committee put strong emphasis on the mental health of women offenders. I think that the issue first came to prominence in the 1990s, when there was an alarming suicide rate at Cornton Vale. The issue is not just that there are more women in prison who have what are broadly and glibly described as mental health problems—some 80 per cent of women prisoners have such problems, as opposed to 50 to 60 per cent of their male counterparts, depending on which of numerous surveys we accept. The issue is that, proportionally, twice as many women prisoners as male prisoners are experiencing severe and enduring mental illness. Severe and enduring mental illness requires concerted, co-ordinated and robust treatment in a hospital or from community care services. For the most part, women with severe mental illness pose a greater threat to themselves than they do to other people. I agree whole-heartedly with what Robert Brown said about that.

We can improve mental health services in prisons. I am glad that in time the NHS will become responsible for the health care of incarcerated men and women. However, prison can never replicate hospital care, nor should it do so. I have some sympathy in relation to the

reluctance of mainstream mental health services to take on offenders, given that they are not always best equipped to do so, but the practice of sentencing women to prison in the absence of appropriate mental health services is unacceptable. The notion that we should send women to prison for their own protection is fundamentally not right.

I spent most of my previous career in social work working with male offenders, including mentally disordered offenders. It was not uncommon to come across men who were in the wrong system—there were men in prison who should have been in hospital and vice versa. However, even I was alarmed to read the evidence of Sue Brookes, a former governor of Cornton Vale, who talked about the frequency with which

“women arrived at reception in Cornton Vale clearly not knowing who they were, let alone where they were”.—*[Official Report, Equal Opportunities Committee, 5 May 2009; c 1005.]*

That is a fundamental issue of justice. We cannot have women going through the criminal justice system who do not comprehend the court process. It sounded as though the women whom Sue Brookes described were clearly not fit to plead.

The report considered whether there is sufficient high-security provision outwith Cornton Vale to treat violent or seriously ill women. Justice cannot be done to that complex issue in this debate. I urge a degree of caution, because the number of women who require maximum-security hospital care such as was provided at the state hospital is very small. Indeed, the number is so small that, when the state hospital was redesigning its campus, the long-term plan was to close Alexandra ward, which was the women’s ward. Some time before becoming an MSP, I had the privilege of working on that ward. It is worth noting that most of the women in it had a significant and profound learning disability and could have been cared for elsewhere if the facilities had existed. The development of medium-secure forensic services is welcome, but how those services currently meet the needs of women is questionable. It remains to be seen what more can be done on that issue.

15:45

Elaine Smith (Coatbridge and Chryston (Lab)): The subject of women in prison has been on the Parliament’s radar since its inception. Johann Lamont first raised the matter as the gender reporter on the Equal Opportunities Committee in the first parliamentary session and I pursued the issue when I was appointed to the role. However, I am sad to say that the number of women in prison keeps on increasing—as we

have heard, it has doubled in the past decade. There have been a number of debates on the issue over the years, but the difference today is that, through the Equal Opportunities Committee’s report, we approach it from an equality perspective rather than simply a justice one.

We continue to imprison women at a growing rate despite the stated and restated policy intention of reducing the number of women in prison. We really need to take action to change that, as other members have pointed out. The reason why we need to change it is not simply to do with reducing crime or prison overcrowding or the economic arguments on the costs of prisoners; the main reason is a genuine understanding that the majority of women in prison in Scotland are themselves victims and that it is in the interests of no one—least of all their children—for them to be in custody.

Statistics indicate that around half the children of female prisoners may end up in prison themselves and that 30 per cent suffer significant mental health problems. Such repercussions mean that we almost certainly create more suffering for future generations and add to society’s ills while achieving little when we imprison women.

I will concentrate my remarks on one or two specific issues in the committee’s report and the Government’s response. First, it is necessary to consider what the majority of women in Cornton Vale are there for and what their backgrounds are likely to be. There has been some mention of that, but it is important that we consider it.

The majority of women in prison have chaotic lifestyles, as well as significant mental health and/or addiction problems. Tragically, many of them have been victims of childhood sexual abuse and physical or mental cruelty. Our evidence unveiled that 75 per cent of current prisoners were victims of physical or sexual abuse, 80 per cent had a mental illness and 98 per cent had addiction problems.

Many women offend because of drug addiction and others take drugs to try to cope with their situation, which involves prostitution in many cases. Again and again we ask why vulnerable women who have been victims of abuse are in prison. Since devolution, the Government in Scotland—it does not matter which Government—has recognised that prostitution is on the spectrum of violence against women, so why are women being criminalised for that abuse and put in jail? I contend that the abusers—the pimps and the purchasers of women—should be in jail, not the victims. Perhaps then there would be a fall in demand and a subsequent fall in the numbers of female prisoners.

The report also addresses the requirement to disclose convictions for prostitution, which can make it difficult for women to escape from prostitution and move into employment. I note that the convener mentioned that. The committee has agreed to pursue the issue with the Government by an amendment to the Criminal Justice and Licensing (Scotland) Bill. The bit that is under dispute just now is the wording of that amendment, but I am sure that we will come to some conclusion on that.

The committee was clear in its report that it did not find it acceptable for children's visits to be cancelled as a punishment for their mothers. Of course, more could and should be done to stop drugs circulating in Cornton Vale, but children should not be punished by having their visits cancelled if their mothers are caught taking drugs. It is not acceptable and does not seem to have been addressed in the Government's response, so I would be pleased if the cabinet secretary could mention that in his closing speech.

The provision of parenting training also needs to be clarified. The Government's response states that Cornton Vale has a parenting programme, but Dr Nancy Loucks of Families Outside states that the course is no longer running because it is not being funded. We need some clarity on that.

I turn now to remand, social inquiry reports and community sentences. We took evidence on the successful alternatives—in particular, the 218 centre in Glasgow, which the previous Executive initiated. That service's purpose is to offer an alternative to custody, to address the root causes of women's offending and to take an holistic approach to changing offending behaviour, so rolling it out makes absolute sense. I would be grateful for the cabinet secretary's comments on that. There is no doubt that more female-appropriate community sentences are needed to prevent women who are the principal carers of children from losing custody of their children.

When women are on pre-trial remand, they are of course innocent in the eyes of the law. A significant proportion of those women do not subsequently receive a custodial sentence, so why is it necessary to imprison them, when they pose no threat in communities? When women are imprisoned, they can lose their jobs, homes and children, with all the consequential problems for them and for society.

Members have said and the report says throughout that it was suggested that women deliberately commit offences in order to access services at Cornton Vale. That leads us to ask why such services are not available before women go anywhere near prison. The cabinet secretary said:

"The SPS does not exist to provide respite care. I am not

being flippant when I say that if that is what you want to provide, it would be cheaper and better to do so at Stobo castle or similar than at Cornton Vale prison."—[*Official Report, Equal Opportunities Committee*, 23 June 2009; c 1161-2.]

Evidence suggested that many women offenders—about 80 per cent—suffer from mental health problems. Social inquiry reports need to be addressed further, because sheriffs might not be receiving the necessary information. That could be a gap. Although many women offenders have mental health problems, the reports do not necessarily include a mental health assessment. That flaw needs to be addressed. Without the right information, sheriffs cannot make the right decisions.

Baroness Corston said:

"Sentencers do not like to hear this, but they have been giving women harsher sentences for less serious crimes."—[*Official Report, Equal Opportunities Committee*, 19 May 2009; c 1048.]

That is a damning and worrying charge. The cabinet secretary made a similar comment on the subject, which I understand is being researched.

Many women in Cornton Vale have been used, abused and abandoned and their children could meet the same fate. They do not need punishment for what are usually crimes of poverty, ill health and abuse; they need help, support and the chance to provide a better life for their families. It is unbelievable that the number of women in prison continues to rise. We need a commitment from the Government to take action and to work with the committee to implement our report's recommendations.

15:52

Bill Kidd (Glasgow) (SNP): As an Equal Opportunities Committee member, I am happy to speak in the debate on our report on female offenders in the Scottish justice system. It is important to acknowledge that, for the most part, women in prison comprise a different prison population from that of male prisoners. In the main, the crimes that women commit and the social circumstances that lead to their offending are different from those of their male counterparts.

The committee visited Cornton Vale women's prison, as has been mentioned. We also visited Hydebank Wood prison in Northern Ireland and the 218 centre in Glasgow, which was an eye-opener for all of us. We took a considerable number of statements from witnesses at oral evidence sessions and received 15 written submissions. Great interest was shown in the inquiry, the contributions to which have produced a report that is worthy of Government consideration.

The report is a substantial piece of work. I add my thanks to those from the convener to all those who contributed to it, particularly as it has added greatly to my knowledge of the circumstances that have led to the issues and concerns that a number of my constituents bring to my surgeries.

The committee reached the view that preventing reoffending through fully addressing female offenders' needs and individual circumstances is of major importance while they are in the prison system—or the justice system, as not all women offenders go to prison. As almost all members have said, many of the women have suffered abuse or some kind of neglect from an early age. They have carried into their adult lives the attitudes that those pressures created. That has shaped their relationships with others, with society and with authority figures.

Of course, as Angela Constance said, poverty contributes to the often chaotic lifestyles that have meant that offenders have been sent to prison or sentenced to carry out other court disposals. The same, sadly, is true of mental illness, which is present to some degree in a significant proportion of inmates at Cornton Vale. Mental illness can be exacerbated by drug abuse, which is also a factor in the theft or prostitution that results in many women being jailed.

All those issues must be addressed when prevention of reoffending programmes are being assessed. The women may appear to have arrived at the same place through the same circumstances, but their circumstances are all different. We have to remember that prevention of reoffending programmes must be tailored to each individual case.

Some women may be helped by programmes that raise literacy levels, which can then be enhanced by further education programmes. In many cases, that is very important, given that, because of their family circumstances, many women offenders had a poor attendance record or poor disciplinary record at school. Other women need some form of training to enable them to find work and to understand that employment is a way out of the despondency of the cycle of reoffending and repeat sentencing by the courts, leading to depression and drug and alcohol abuse.

Although it is important to remember that prison and other forms of court disposal are to some extent meant as a punishment for wrongdoing, it is vital to remember that rehabilitation is of considerable importance, too. No member in the Parliament is in the business of locking them up and throwing away the key; nor do we believe that the out of sight, out of mind approach is acceptable.

Along with my colleagues on the Equal Opportunities Committee, I know that good work is being done for women in our justice system. However, as our report suggests, there are still issues to be addressed and improvements to be made. I mentioned earlier one such issue: the sending to jail of women with mental health problems. In many cases, prison exacerbates their mental ill health and achieves nothing.

It is equally important to remember that there are many mothers among the female offender population in the Scottish justice system. Their children are often the innocent bystanders, caught up in the system of crime and punishment. Every possible means must be looked at to ensure that they suffer as little upset in their upbringing as possible, if for no reason other than the fact that a disturbed upbringing is often the cause of their mother having committed the crime in the first place. If we can avoid that vicious circle, so much the better—[*Interruption.*] Hugh O'Donnell looks as if he is swatting a fly; I am not sure what he is doing.

Avoiding a jail sentence whenever possible and whenever appropriate by ordering women to a place such as the 218 centre is more beneficial to their continuing family life than prison is. I was happy to hear the cabinet secretary report on the developments that are to take place in Inverness and Aberdeen. I am not certain that they will be exactly the same as the 218 centre, but if they serve the same purpose, they will be extremely useful.

If it is judged that prison is necessary, Hydebank Wood's family visiting centre, which we saw on our visit, is an ideal model for us to follow. Cornton Vale is developing a similar facility. I ask the Scottish Prison Service to consider the Northern Ireland experience as a model that it might wish to follow.

It is a privilege to have taken part in this debate on the Equal Opportunities Committee's report. I join our convener and fellow committee members in commending the report to the Parliament.

15:58

Mike Pringle (Edinburgh South) (LD): As the number of women who come into contact with the justice system has increased, gender-specific problems have become all the more evident. That raises several challenging questions, which is why I welcome both the committee's report and today's debate.

As detailed in the report, the majority of women who commit crime share certain characteristics: 80 per cent are unemployed at the time of arrest; 95 per cent left school at 16 and may have few qualifications; 75 per cent may have suffered

abuse in the past; and 80 per cent have mental health problems. More alarming still, 98 per cent of inmates at Cornton Vale have drug or alcohol addiction problems.

Those statistics reveal the often serious underlying problems that face women who come into contact with the justice system. The apparent direct correlation between the stats and repeated offending should not be taken lightly; those underlying problems are not being adequately addressed by the system.

As several members have remarked, it is important to remember that women are far less likely than men to commit violent, sexual or serious crimes. That means that, regardless of whether they are a danger to the public, they are far more likely to receive short-term prison sentences. The Liberal Democrats have consistently expressed concern about such sentences.

The committee's report highlights the disruption that short sentences cause to families and children. It is claimed that short sentences do greater damage than any good that is done by the respite that they provide for communities. In written evidence submitted to the committee, Lothian and Borders community justice authority stated:

"Our experience would indicate that little benefit in terms of addressing offending behaviour, change in attitude or skills development is or can be achieved in such short periods of custody."

Last year Liberal Democrats revealed that the number of incidents of self-harm in Cornton Vale had rocketed from seven in 2004 to 64 in 2008, which is much higher than in any other prison. We know that self-harming is closely linked to mental health problems and that many of the inmates in Cornton Vale struggle with addictions and mental health problems that are further exacerbated by severe overcrowding. Addressing those problems is vital if female offenders are to break the offending cycle and to make a useful contribution to society when they are released, but there is simply not time to do that in the context of short-term three-to-six-month sentences.

I agree with the cabinet secretary that we must think about whether short-term sentences are of any use for many female prisoners. At the beginning of the debate, Margaret Mitchell referred to an offender who had been in prison for seven months and had received no help. Elaine Smith's speech was bang on the button. The people whom we are discussing have social problems. In many cases, I do not believe that they are criminals—they have got themselves into a situation that causes them to be sent to prison. We should not send to prison the types of women who receive short-term prison sentences. It is more vital that

we address the problem of short-term sentences for women than for men. As members have said, women normally hold the lease; if they go to prison, that is the end of the lease. They also have the children, who are taken into care. How much does that cost us? The combined cost of keeping a woman in prison and her children in a home somewhere must be dreadful.

I return to a point that I made earlier—98 per cent of the women in Cornton Vale have mental health problems. What percentage of the people in Cornton Vale are serving sentences for serious criminal offences? I suggest that precious few of them are.

Bill Aitken: I can assist the member. The most recent figures indicate that 24 per cent of the people in Cornton Vale are there for homicide, serious assault or attempted murder.

Mike Pringle: The answer to that is that the remaining 76 per cent should not be there, as they will be on short sentences. We need to help those people. I suggest that both the community and minor offenders who are not a danger to the public would be better served by effective community penalties and/or drug treatment and testing orders. Such measures would keep them in the community, at home, where they can look after their kids, would address the underlying reasons for offending and would require offenders to work to pay something back to the communities that they have harmed. That is not to say that community sentencing is a quick fix.

Margaret Mitchell: I thank the member for his supportive comments, but I would not like the chamber to be misled. We are talking about people who have broken the law. The question is, how can we best deal with their offences and offending behaviour and rehabilitate them?

Mike Pringle: I do not doubt that they have broken the law—I am suggesting that they should not be in prison and that they should do some sort of community service.

Given the alarming figures that were published this week, which indicate that many community sentences and DTTOs are not being completed—the research does not distinguish accurately between men and women—it is clear that progress must be made on ensuring that community penalties are an effective alternative to custody.

Maintaining close family ties is often particularly significant for female offenders. The importance of such ties to the rehabilitation process was emphasised by Dr Andrew McLellan during his tenure as HM chief inspector of prisons.

The committee has done an excellent job and I fully agree with its recommendations. I look

forward to hearing what the Cabinet Secretary for Justice has to say.

16:05

Malcolm Chisholm (Edinburgh North and Leith) (Lab): After studying the issue for a short time and visiting Cornton Vale, two shocking and disturbing facts became clear to me. The first is the appalling extent of sexual and/or domestic abuse in the backgrounds of the women, and the prevalence of mental health and addiction problems, which are sometimes but not always related to that abuse; and the second is the large number of women who simply should not be in Cornton Vale but somewhere more appropriate.

Obviously, sentencing is a matter for sheriffs, but the committee suggests that the Government consider the idea of having a separate sentencing framework for women. We certainly say that it is our responsibility to consider alternative provision. Clearly, there will be big debates about community sentences in coming weeks, and we must ensure that gender issues are recognised as part of those debates. Paragraph 137 of the report indicates that Government officials admit that such issues have not always been recognised.

I have mentioned alternative provision, and we certainly highly commend the 218 centre. We say in the report that the Government should consider having similar centres in other parts of Scotland. I was pleased to visit Glasgow sheriff court as part of the inquiry. It was very encouraging to see, in relation to a woman for whom we all had a great deal of sympathy, the sheriff using the option of the 218 centre for the disposal rather than the option of Cornton Vale. Would that the 218 centre option were available to a larger number of women.

Angela Constance, in a very important speech, referred to alternative provision for those with mental health problems. Mental health featured very strongly in the report, which has many important recommendations on that issue. For example, paragraph 51 says that there should be

“a re-examination of the way that women with mental health problems are sentenced”.

Paragraph 119 makes the specific recommendation that medical reports should be available to sentencers. Mental health must be considered at the pre-sentencing stage.

We also say, in paragraph 52, that

“improvements must be made to the support that is provided both in prison and in the community to female offenders with mental health problems.”

Obviously, I take on board what Angela Constance said about the limitations of what can be provided in prison. There are some necessary

limitations, as the chief executive of the Scottish Prison Service agreed.

However, there are also areas in which improvements could be made. For example, there is an admission in the draft Scottish Prison Service women offender strategy that, at Cornton Vale, there is

“limited psychologist input, and no individual clinical psychology.”

The recent inspectorate report on Cornton Vale talks about the health team there not being at full strength—it should include seven mental health nurses. Improvements can therefore be made in Cornton Vale, but it is clear that, often, alternative provision for people with mental health problems should be considered.

The other issue that comes up in our report is what happens to women after they leave Cornton Vale. Ideally, they should be directed to community-based mental health services. However, important written evidence from the Scottish Association for Mental Health pointed out that such services

“are often too rigid and place unrealistic demands on those who may be most vulnerable.”

That leads into the issue of throughcare and what happens to women once they leave Cornton Vale, to which we devoted a section of our report at paragraphs 158 to 161.

One of the most interesting reports that I have read in relation to throughcare is by an organisation called Circle Scotland, which has been doing work with women in Cornton Vale over the past two years. A review of the first year has been published. I have a particular interest in the Circle organisation, since it is based in West Pilton in my constituency. It has done excellent work with families in many contexts. The report “Circle: Throughcare for Female Offenders” is interesting because it shows what can be done with women who have been in prison if they are given support when they leave. One of the most striking facts in the report is that there is virtually zero reoffending among the women with whom Circle has worked up till now. We refer to that in paragraph 169 of our report, and I hope that the Government will examine the Circle report and will consider that approach as an important part of the way forward.

One issue for Circle is working with children, and there are important recommendations in our report with reference to children. In particular, I draw the attention of the cabinet secretary to the absence of a response to the first part of the recommendation in paragraph 67, which says:

“Where female prisoners with children continue to take drugs, the Committee has made clear its view that any subsequent punishment should not impact on the child in question.”

It would be interesting to hear a response to that point from the Government.

I thank the Government for its response on the other recommendations. In general, its response was positive, although there are big issues about the implementation of many of the report's recommendations.

On speech and language therapy, which is dealt with in paragraphs 72 to 74, our recommendation was to have

“a pilot speech and language therapy programme”.

We received important evidence from the Royal College of Speech and Language Therapists, which pointed out that

“SLT interventions could help to prevent and reduce the female re-offending rate by increasing oral communication skills, by enabling the individual to access a wider range of rehabilitation programmes, thereby empowering them to change their offending behaviour.”

The Government's response to that was not entirely positive, although it has said that it will examine the evidence. I hope that it will do so soon and take that recommendation on board.

16:11

Christina McKelvie (Central Scotland) (SNP):

As a relatively new member of the committee, I did not have the benefit of sitting through the evidence sessions and going on the visits, although I welcomed the report when it came out, as the subject of female offenders is one that I am really interested in. I pay tribute to and thank my colleagues and the committee clerks for the support that they gave me.

I also pay tribute to the committee system of the Parliament. The committee's report clearly shows how the system can address serious issues in Scotland—it just shows what can be done when a committee works together as one force.

The justice system has been changing rapidly over the past few years, and we expect it to continue to do so over the next few years. We are modernising it in many ways, bringing both the law and practice right up to date. I look forward to the continuing debates on the Criminal Justice and Licensing (Scotland) Bill and to our continuing consideration of penal provisions—it all interlocks.

The demographics of the people whom we incarcerate and the special problems that they face have been political issues—if not quite the hottest political issues—for some time. There is also an important social matter. Those issues have been kept alive by doughty campaigners and dedicated politicians from all points of the spectrum, who believe that we should examine both the way in which we treat prisoners and the effects of that treatment, and thereby seek to

improve the conditions in which prisoners are kept and the effectiveness or otherwise of prison for ending reoffending behaviour.

In particular, I note the trenchant criticisms that have been made by the chief inspector, and the changes that have come about as a result of that catalyst. Such critical examination has been particularly well focused on the issue of female prisoners, and it is only appropriate to pay tribute to previous Administrations and the work that was done by the Parliament in previous sessions to find and use alternatives to custody.

The principle has been well established in the debate that short, sharp shocks, mandatory sentences and so-called zero-tolerance policies that lead directly to jail for crimes short of capital crimes are, by and large, ineffective at producing the results that society needs for its justice system.

I acknowledge the position of the justice secretary that sentencing decisions are for sheriffs and judges to make, having taken into account all the factors in a case, including any plea in mitigation or plea for clemency on behalf of the accused. I think that he and I are on the same wavelength in thinking that the disposal of cases should be left to the court, although the court must have the full range of disposals available for consideration. One worthy development has been the making available of an offer option, in which the accused pays something back to her or his community without having to go to court.

I am sure that I will be corrected if I am slightly wrong, but I believe that procurators fiscal have had their power to determine whether prosecution is in the public interest extended, and that they can now also consider disposing of cases by means of a compensation order, which offers the offender the chance to compensate the victim quickly—rather than dragging a relatively minor case through the courts—and which allows the public interest test to be set against whatever benefits there are to the community and to the victim.

The committee's report specifically mentions the 218 centre, which is a smashing example of effective work with female offenders. The report highlights the use of such projects in the prevention of reoffending behaviour, which I think is worth pursuing.

Of particular interest to me is the work offers project, which, as the Government's response to the report mentions, has been piloted in Hamilton, Inverness, West Lothian and West Dunbartonshire. The pilots appear to involve compensation offers of community service. I understand that offenders who have taken up those offers have cleaned up parks and beaches

and have learned other skills such as painting and decorating, which may improve their future employment prospects and help them to stay out of trouble.

As a member of the Education, Lifelong Learning and Culture Committee, I believe that education is an extremely important way of helping people not to reoffend. Someone once said that education can set you free; in the context of the situation that we are discussing, that freedom is physical and spiritual. In my research for the debate, I read in *The Journal Online* that one young offender who had done 30 hours of service in a charity shop decided to volunteer there and has carried on helping that shop. That shows the importance of such work, which, along with the cashback for communities initiative, is delivering benefits for all our communities. We should applaud that.

I firmly believe that women who have mental health issues need care rather than imprisonment. There has been some mention of social inquiry reports not addressing such issues. I believe that the Mental Health (Care and Treatment) (Scotland) Act 2003 contains a provision whereby a court can request a social inquiry report from a mental health officer. If courts and sheriffs made such requests, perhaps women with mental health issues who are at present incarcerated would have better outcomes.

I applaud the steps that the justice secretary has taken to address the gender imbalance in sentencing that has been all too apparent in Scotland. Mr MacAskill, along with other colleagues, has pointed to the harsher sentencing that women have faced in Scotland's courts. I was astonished to discover that 70 per cent of the women who have been sent to Cornton Vale over the past 10 years have served a maximum of six months in prison. It is incredible that we spent public money in that way over such a long period when we know that short sentences are ineffectual at best and may even be counterproductive.

If someone has an issue such as a mental health problem that puts them or others in danger, they need a hospital bed rather than a prison cell, and that must be properly supported. My view on that issue is the opposite of my colleague Bill Aitken's. The fact that the number of female prisoners rose by 90 per cent over the past 10 years indicates that something was not working properly. I find Robert Brown's comments on the issue, as they were reported in *The Herald*, a trifle bizarre. He said that that sentencing pattern suggested

"an element of old fashioned male gentility when it comes to sentencing women".

However, in his speech today, which was most welcome, he moved on his argument a little, just as the committee moves the issue on in its report.

To an extent, we are testing the boundaries. The positive response from the Government suggests that movement is being made to address many of the issues surrounding female offenders. I welcome that, and I look forward to an interesting debate on justice policy over the next year. I commend the committee and its report.

16:18

James Kelly (Glasgow Rutherglen) (Lab): I welcome the opportunity to take part in the debate. Like others, I commend the committee and its convener for their work on female offenders. The issue of female offenders is clearly important and sensitive, and I welcome the fact that Parliament is debating it.

I agree with Christina McKelvie—there is a first time for everything—that the production of this important report demonstrates one of the benefits of the committee system. The report highlights issues that are important to women in Scotland, allows the Parliament to discuss them and gives the cabinet secretary and his team the chance to reflect on them with a view—we hope—to improving the quality of life of women prisoners at Cornton Vale, stopping people going into such establishments and reducing reoffending. From that point of view, the report makes an extremely important contribution.

The starting point for any analysis is the extent of the problems that women and women prisoners face. As many have said, the female prison population has doubled from 199 to 400 over the past 10 years, which clearly demonstrates that women in society face issues that have resulted in more of them going to prison.

Mike Pringle listed many of the statistics that are quoted in paragraph 21 of the report. For example, 80 per cent of the women had been unemployed, 95 per cent left school at 16 and 98 per cent were on drugs.

Kenny MacAskill: Can the member tell us how many additional female prisoners he anticipates there will be if mandatory sentencing is brought in, or are they all to be viewed as exceptional cases?

James Kelly: I assume that the cabinet secretary is talking about mandatory sentences for carrying knives. In 2007, 50 per cent of all murders related to knife crime, so, if mandatory sentences are introduced, there will be a reduction in the number of murders. The streets will be safer as a result of mandatory sentences.

As I was saying, it is clear that women who go to places such as Cornton Vale do so because they

lead chaotic lifestyles. The statistics quoted in the report tell a story of a lack of stability. Those who are in charge of sentencing must be aware of that. As other members have pointed out, there are also important issues around the women's mental health, which must be addressed.

Some practical measures should be considered to make progress. Robert Brown mentioned visiting facilities, and the report considered family contact time. Many women prisoners have children, and one of the sad facts in the report is that, if we continue on the current route, more than half of those children will also end up in prison. It is important that there is proper contact between women and their children, and the committee's recommendation that we should try to have flexible visiting facilities to establish such contact is important.

In recent weeks, there has been a lot of discussion in the Parliament about literacy. That is clearly an issue for prisoners generally, and specifically for women prisoners. If we do some work on literacy in prisons, particularly in Cornton Vale, we will increase the level of education of women prisoners and help them when they return to the outside world and look for a job.

As Bill Aitken said, there are clearly issues around drug use. Other more general issues also need to be addressed. For example, Elaine Smith mentioned community penalties. Such penalties clearly have to be properly funded and properly evaluated in respect of how they apply to women. There is obviously an issue around community penalties, given that statistics that were published earlier in the week show that a third of them are breached. I have severe reservations about the funding of community penalties, but perhaps that is a debate for another day.

We must have another look at how we make facilities work. Johann Lamont and I recently visited the Wise Group's scheme. It has a much more hands-on approach to working with prisoners as they near the end of their sentence and go back out into the community, and it has had some success in getting prisoners back into the workplace. Schemes such as that must be considered.

I thank the committee for its report, which makes many useful suggestions. I look forward to hearing how the Government will take them forward in practice.

16:24

Hugh O'Donnell (Central Scotland) (LD): I thank the committee clerks for their hard work in marshalling our thoughts and us and for their work on the report. I also put on record my thanks to all the people who gave us evidence. I will avoid this

becoming like the Oscars by trying to name them all; I simply say thank you to all those who contributed.

The inquiry was difficult and occasionally harrowing, even for me, who, albeit for a relatively short time, worked in Low Moss prison and had some idea of what to expect. The committee report highlights a number of matters the seriousness of which has been reinforced by most of the speeches in this debate. At the top of the agenda—as far as I can gather from listening to the debate—is the effectiveness of short-term sentences in addressing reoffending. We need to consider seriously short-term sentences in the context of the breakdown of families, mental health and other health issues. Mandatory sentences are not necessarily helpful in that regard.

The debate has brought out many of the challenges that we face. Angela Constance, from her former professional experience, referred to the lack of alternative mental health facilities. I tend to agree with both her and Christina McKelvie that incarcerating someone who has a mental health problem ostensibly for their own good is not the way in which we should proceed.

To be fair, the Scottish Government's response has been, for the most part, positive. However, in the light of the recent inspection report on the conditions in Cornton Vale, we need to be assured that the SPS will develop its women offenders strategy more urgently than has been the case to date. The strategy must have a timetable for delivering its priorities, otherwise the whole debate is empty rhetoric that we will revisit time and time again.

At the heart of the issue is a more general problem relating to the role of the SPS in rehabilitating offenders, which I raised during the committee's inquiry. I had a quick look at the latest SPS annual report before the debate. The mission statement on the SPS website says that its role is

"to provide prisoners with a range of Opportunity to exercise personal responsibility and to prepare for release".

Under the SPS's aims and objectives, it states:

"We will be recognised as a leader in offender management services for prisoners that help reduce re-offending and offer value for money for the taxpayer."

Frankly, the SPS's annual report looks like a corporate report from a commercial organisation, which should not be the case.

Given the committee's report and the evidence that we took, I think that the SPS's role in reducing reoffending should be put further up its agenda. That could be addressed partly by ensuring that the key performance indicators that the Government sets for the SPS bear some

relationship to addressing rehabilitation. From what I can see in the SPS's annual report and its aims and objectives, that does not seem to be the case, which is a little disappointing. I would be much happier if the SPS's rehabilitation responsibilities were added to its KPIs.

I was also a little disappointed with the Government's response to the committee's report in relation to equality impact assessments and human rights issues. That has not been touched on in the debate. I was particularly surprised that the Government seemed to suggest that equality impact assessments would be carried out only in new-build facilities. We need to be clear that, when prisoners are transferred to local facilities, equality impact assessments should be carried out in relation to existing facilities as well as new-build facilities, which I understand will be primarily at the proposed Grampian prison.

On human rights issues, I quote the Government's response to paragraph 85 of our report, which states that human rights issues will be taken into account only

"in accordance with existing practice in SPS."

I would have thought that human rights issues should be taken into account in accordance with human rights laws. Perhaps the cabinet secretary will respond to that observation in his closing remarks.

I commend the committee's report to Parliament. I look forward to hearing how the cabinet secretary will address the specific issues of timetabling and strategy and the other issues that have been raised today, and about the practical steps that the SPS and the Government will take on the recommendations.

16:30

John Lamont (Roxburgh and Berwickshire) (Con): I would also like to start by recognising the hard work that the Equal Opportunities Committee has done on the inquiry. I imagine that, at times, examining the subject was not easy or comfortable.

The debate has given us a deeper insight into how members view female offenders, why females offend, how they should be dealt with, who should be in prison and how to prevent reoffending in the future, to name just a few of the issues that have arisen. Everyone in the chamber agrees that we must ensure that, once someone has been sentenced to punishment, we do everything possible to attempt to rehabilitate them and give them positive options and choices in life. Every opportunity must be taken to support them to make the right decisions, although it should be recognised that there will be a few who, for

whatever reason, will not or cannot make the right choice to improve their situation.

I have visited some of Scotland's prisons—admittedly, not Cornton Vale—and I have always found such visits to be informative, particularly with regard to how people struggle to cope with their new environment.

I will now touch on some areas of the report. Some of the statistics in the report regarding Cornton Vale are astonishing. The one that I would like to pick up on is the statistic that 98 per cent of inmates had drug addiction problems—a point that was also made by Angela Constance. However, it was interesting to read the evidence from Sue Brookes, the head of offender strategy and partnership development at the SPS, who stated:

"drug use will never be prevented absolutely, and it is a mistake to try to do so."—[*Official Report, Equal Opportunities Committee*, 5 May 2009; c 1011.]

I recognise and understand, as did the committee, that certain security measures might not be suitable for use on all offenders, especially those who have a history of abuse. However, trying to prevent drug use absolutely would not be a mistake, and that should be the aim of the SPS. It is unacceptable that prisoners, regardless of their sex, have access to illegal drugs while in custody. The SPS must and should do everything possible to prevent drug use in prison.

The Scottish Conservatives have a zero tolerance approach to drug use in prison. No matter how long a prisoner is in custody for, it must be ensured that as much information and help as possible is provided to them to help them to get off drugs. Substance abuse is a long-standing issue and, in many cases, results in people being trapped in the revolving door to prison. People who want to get off drugs should be given help and encouragement to do so. Whether their sentence is six months or six years, it should make no difference.

Robert Brown: Does the member accept that that raises the important question of the transition to freedom and the need for throughcare linkages to be more effective than they have been?

John Lamont: I accept that point and will deal with the issue shortly.

The report examines issues such as mental health, families outside prison and substance abuse, which I have already touched on. It is important to examine those areas and others if we are to understand why prisoners offend in the first place and what it is that needs to be done to prevent them from reoffending.

Although many prisoners get offered support in prison and have access to all sorts of courses and

classes, it can be quite a different matter when they are released, as James Kelly pointed out. I have heard many stories about the difficulty that ex-prisoners face when they find themselves back in society trying to secure a job and a home and to create a new life. Often, it is easier to return to bad habits, especially if their friends and members of their family are themselves offenders or substance abusers.

It was interesting to read what the report said about throughcare, the importance of which we recognise. There is clearly a possibility for greater use of the voluntary sector in that area to ensure that needs are met. I also welcome the establishment of the reducing reoffending programme, and I look forward to hearing the cabinet secretary report back to Parliament on it.

I will finish on a point that some might find controversial. The statue of justice is a woman bearing a sword in her right hand and a set of scales in her left. In many depictions she is wearing a blindfold, which represents the belief that the law must be administered without fear or favour. If someone commits a crime and the sentencer believes that the only suitable disposal is a period of imprisonment, they should be allowed to pass that sentence regardless of the offender's wealth, rank, race, age, sexual orientation, religion or gender.

There are many victims in our criminal justice system, and sometimes those who commit crimes are the victims of their own circumstances or situation in life. We have a duty to ensure that they have every opportunity to change their behaviour and that they are given the support to make the right choices.

We believe that in a lot of cases, a custodial sentence—even one of six months or less—is the only suitable disposal, especially as community sentence orders are continuously being breached. We note the report's recommendations, but if we do more to tackle rehabilitation in prison, and drug and alcohol addiction more widely, we will help female prisoners, male prisoners and wider society.

16:36

Johann Lamont (Glasgow Pollok) (Lab): I welcome the debate and congratulate the Equal Opportunities Committee on the important job that it has done in producing its report.

As Elaine Smith mentioned, the Parliament has wrestled with the issue of female offenders over a long period of time. The Equal Opportunities Committee has always been an important forum for addressing such questions, particularly with regard to understanding that the justice system often treats women most unfairly and further

victimises them, and the committee has debated those broader issues over the years.

The committee's report and today's debate highlight the need for us to pursue a gendered understanding of the justice system. We need to understand why women are overwhelmingly the victims of domestic abuse and male violence, and we need to address our policy with regard to that understanding. It is a simple truth: if we do not ask why, we will not change behaviour and create circumstances in which we can eradicate domestic abuse, for example.

It is important to speak about women's experiences. We need to ask why women suffer disproportionately from mental health problems and end up in jail, and why their offending behaviour is remarkably different from that of men.

The minister referred to the issue of knife crime. Women are rarely the perpetrators of knife crime, but many women are mothers who will sleep easier at night if we address the problem of knife crime and the risk that it poses to our sons.

I would be grateful if the minister could confirm that he and his department will continue to take a gendered approach to the issue of male violence against women. As is the case with understanding why women end up in the situation that they do, the answer involves addressing the pattern and then eradicating it. That attitude explains why we on the Labour side of the chamber resist a mechanistic approach to sentencing, which the minister has advocated—as if the different needs of men and women could be captured by taking a blanket approach to sentencing.

The irony is that a sentence of six months or less might keep a woman who has been abused by a man safe from male violence. It should be recognised that short sentences can have a different impact for women victims of male violence from that which they might have for men.

Hugh O'Donnell: I have a hypothetical question. What would happen if a female was obliged under pressure to carry a knife or bladed weapon for her boyfriend? Would she be prosecuted under the mandatory sentence system?

Johann Lamont: We have made it clear that that is appropriate, and we need a justice system that asks those questions.

I return to my point about sentences of six months or less. Ninety per cent of aggravated domestic abuse crimes do not attract a custodial sentence at all, and the remainder attract a sentence of less than six months. The respite that women get when men are sentenced, even if it is only for three or four months, can make a life-changing difference for them. Therefore, any

sentencing policy cannot involve the type of blanket presumption that the minister makes.

The cabinet secretary referred to the period during which I was Deputy Minister for Justice. I was aware back then of the temptation in the Scottish Executive, as it was then, for departments to operate in silos. I urge the minister to ensure that his justice policies are shaped by an understanding of equality issues and by the views of the equality unit and the national group on violence against women.

We all recognise that women offenders often represent failures of systems to support women at an earlier stage in their lives. It is essential that local services understand women's needs. That is why I continue to press the Government to ensure that single outcome agreements are subject to equality impact assessment. If they are not, the problem of some services not meeting women's needs will be compounded. I was troubled when I read the following in the committee's report:

"Members of the Committee were deeply concerned to hear that some women deliberately commit offences purely to access the services provided in Cornton Vale prison."

How scary a comment is that, and how serious a comment on the lives of far too many women? It shows what their lives outside prison are like. We have to redouble our efforts to ensure they have access to services and to refuge, our efforts to tackle offenders, and our efforts to support those who face abuse.

We need certainty in funding. That is a challenge for the Government, as it would be for any other. However, it highlights the importance of considering the role that prisons play in supporting women. I understand why people say that prison cannot help everyone who goes in for short periods, but I do not accept the view that nothing can be done and that short sentences are therefore a failure. I refer the minister to the routes out of prison project, which is run by the Wise Group. James Kelly mentioned that. In that project, life coaches work with people while they are in prison—sometimes it is the first time that it has been possible to capture them—and provide a bridge out into the community. I urge the minister to provide that service for women prisoners as well, because such support is critically important to them.

Families Outside, the group that Robert Brown mentioned, is right to talk about the disruption to families and the shame that they experience. It is critical, then, that we ensure that there is sufficient funding for the voluntary organisations that people trust. Statutory organisations are often dangerous places for families in such circumstances. I also urge the minister to reflect on what we should be doing in schools to support young people. We

need to understand the barriers to learning that can exist when children face such circumstances.

The Presiding Officer (Alex Fergusson): I must hurry you, I am afraid.

Johann Lamont: I finish on Elaine Smith's point that we have to consider the issue in relation to an equality perspective. It is about women's lives, their education and employment opportunities and their lives as young people. We need to fund services as much as making pronouncements on justice policy if we are to ensure that we address women offenders' needs.

The Presiding Officer: We have no spare time available, so I must ask members to stick to the times that they have been given.

16:42

Kenny MacAskill: The debate has been remarkably consensual, which is rather unusual for a debate on justice policy. The tone was set by the convener's speech and indeed by the nature of the report—that was mentioned by the likes of Christina McKelvie. I do not wish to detract from that, because it is important that we recognise that there are underlying social problems that we have to address. Bill Aitken was correct to say that, in many instances, the problems of female prisoners are a microcosm of the problems in the prison system. That said, they are usually worsened, heightened or accentuated by a variety of factors, in terms of number, of nature or of external circumstances, be they children or otherwise.

I am grateful to Robert Brown for his comments about the performance of staff. Although Brigadier Monro made some challenging comments regarding Cornton Vale that will have to be addressed, there is uniform acceptance that the current staff work remarkably hard and do an excellent job with people who can be very demanding and difficult even if we have, in some circumstances, the utmost sympathy for them.

It would be remiss of me not to make some comments on the basis that we recognise that the SPS and the Government need to do more. We certainly accept that. Equally, it would be remiss of me if I did not make the point that more in means more to be done, which exacerbates the challenges. More prisoners means more prisons, and the many things that require funding cannot be magicked out of fresh air. If we want to do some of those things, we have to recognise that alleviating the pressure is the right thing to do, that mandatory sentences might not be appropriate, and that we should consider those on short sentences, unless they need to be there. Johann Lamont will be glad to know that I am a great supporter of Sheriff Raeburn and her right to send people to prison for periods of less than six

months if she thinks that it is important to do that. That is why it remains.

The committee report and many speakers in the debate mentioned the benefit of the system that operates in the prison in Belfast. We agree that it is good, but on Monday 8 February 2010, the female population at Hydebank Wood, Belfast, was 36—21 convicted, 13 on remand and two immigration detainees. Last night, the population at Cornton Vale was 373. We also have a wing at HMP Gateside in Greenock that houses women prisoners. It is clear that things have to be done and that we have challenges to rise to. There are facilities in Cornton Vale for access for children, even if they are not ideal, on which Brigadier Monro has commented. However, there is a significant difference in how one can deal with the wants of female prisoners, especially those with children, when the prisoner population is one tenth of the population that we have here. Not only is the population in Cornton Vale 10 times that of Hydebank Wood, but we have another prison that takes female prisoners. We recognise the challenges, but others should recognise that unless we make some underlying changes, we may strive to do more, but we will not be able to do more, except at great cost.

Elaine Smith: Will the minister comment on the alternatives, such as 218, and how they will be rolled out, so that we can reduce the number of women in Cornton Vale prison?

Kenny MacAskill: First, we must try to stop the numbers increasing. Many people, including Elaine Smith, acknowledge that the numbers keep rising. Dr Simpson may laugh, but the fact is that the numbers rose under his watch and they are rising under ours. Action has to be taken. The committee accepts that some change has to be made, because the system is not working.

We recognise the great benefit of the 218 centres, which are appropriate for cities such as Glasgow. There are funding constraints and such centres could not necessarily be replicated elsewhere. As I said, we are taking steps to ensure that we have facilities at HMP Aberdeen and HMP Inverness. That will come at a cost.

It will cost the Scottish Prison Service £300,000 to undertake improvements and provide staff for Inverness and Aberdeen. That is at a time when there are significant pressures on resources. I do not need to use the famous quotation about how much we are being hammered by cuts from elsewhere. That is the money that we are putting in to try to deliver. If we want to make the changes, we have to provide the staff who are doing an excellent job with some room for manoeuvre.

It was recognised uniformly throughout the chamber that we have to rise to the significant challenge of mental health. Some people would be better treated elsewhere. That is why we recognise that we need to ensure that the prison health service is integrated with the national health service.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): In my time, we introduced the 218 centre, which was designed to do that. The number of fine defaulters in the women's prison has gone down by more than half, but the big problem is remand. What will the cabinet secretary do about that? That is not about sentencing or what happens beyond the court; it is about what happens before sentencing. The biggest rise in the prison population is among people on remand. That is what needs to be dealt with.

Kenny MacAskill: I regret that Dr Simpson, who was not present during the debate, came in simply to make excuses.

Dr Simpson: I would not have spoken if I had not been named.

Kenny MacAskill: If Dr Simpson wants to tackle such matters, perhaps he should stick to his principles on alcohol, as opposed to going full circle on where he stands on minimum pricing. One of the major factors that is resulting in an increase in the number of women prisoners, and especially in remanded women prisoners, is alcohol abuse and the violence and disturbance that follow. There is such a thing as a ladette culture, as it is referred to on the television. One of the ways of tackling that is not to lock up these women for longer or to put them in for three weeks or less, but to tackle the availability of the cheap hooch that is fuelling so much disorder in our communities among the female population as well as among the male population.

I am conscious of the time, Presiding Officer.

We recognise the challenges that we have to rise to around mental health, and those around the particular needs and wants of women who are doing community payback. The problem is often lack of child care, rather than them not being capable of some of the work schemes.

The point to end on is one that Margaret Mitchell raised. Something is fundamentally wrong when we are incarcerating more and more prisoners, and we know that those prisoners who have children have an increased chance of seeing their children, too, coming into the system, generation after generation, under Dr Simpson's watch or under ours. It is time to change, and that is why we welcome the committee's report.

16:51

Marlyn Glen (North East Scotland) (Lab): I am pleased that we have had this debate on the Equal Opportunities Committee's report on female offenders in the criminal justice system, and I am particularly pleased that the topic of female offenders has moved up the political agenda. Members across the chamber seem to agree that action has to be taken to turn round the dismal picture that Robert Brown and others have painted.

I am, however, disappointed that the cabinet secretary chose not to concentrate on responding to the serious recommendations of the committee's report and broke the consensual note of the debate.

Real disappointment comes from the fact that we have been here before. As the convener and Elaine Smith said, this time we are coming at the issue from an equalities perspective. We still struggle with the stated aim of making justice gender neutral when the statistics, as rehearsed by members such as Mike Pringle and James Kelly, speak for themselves. As Johann Lamont explained, there needs to be a gendered approach—that is the point of the report. If we want equal outcomes, we have to have different inputs. Justice and the prison service have been built around and for men and they struggle to cope with gender differences. Being gender blind is not helpful.

The conclusions of "Women Offenders: A Safer Way", a Scottish Executive document from 1998, covered the same problems of drug abuse, fine defaulting, and the additional history of emotional, physical and sexual abuse, and yet the number of female prisoners keeps rising. The cabinet secretary made much of the increasing numbers when what we want to hear about is the actions that are being taken to decrease them.

We have, however, moved on and improvements have been made. One of the most significant of those was the opening of the 218 centre, which members have spoken about and praised. The 218 centre has an excellent reputation for providing services to women in the criminal justice system. The committee will be keen to see the results of the evaluation currently being undertaken on the centre, and to see such services being replicated across Scotland. The challenge now is whether more such far-reaching changes will follow all the work that has gone into the committee's report, the recent inspectorate report on Cornton Vale, and the on-going work that many stakeholders do.

The committee is pleased that the Scottish Prison Service's forthcoming strategy on women offenders, and the strategy on domestic abuse,

will take account of the recommendations that have been made. We hope that those strategies are finalised as soon as possible, as the key will be in their implementation. To echo Hugh O'Donnell, we are keen to see a realistic but fixed timetable, and to monitor the delivery of those strategies.

The Criminal Justice and Licensing (Scotland) Bill presents the Government with a golden opportunity to take action to prevent reoffending. The bill must be used to ensure that the needs and individual circumstances of female offenders are addressed. For example, we cannot shy away from re-examining the logic behind the Government's position on ex-offenders. There is agreement about a gendered analysis of violence against women, and that prostitution is part of the spectrum of violence against women. Money and a huge amount of effort are put into the essential work of promoting routes out of prostitution, but still women who are seeking traditional jobs in caring face the disadvantage of having to disclose convictions as if they were a danger to children and vulnerable adults solely because of a previous conviction for prostitution. The committee heard a plea from an ex-offender on that issue. I urge the Government to consider its position on that important point. If we are to maximise the work possibilities for ex-offenders, as the cabinet secretary has talked about, the issue cannot be ignored.

The Scottish Government's comments on the committee report focused on support for female offenders during community penalties, rather than support post sentence. However, it is of central importance in reducing reoffending that there is support on release from prison, too. The committee received evidence during its inquiry from the south-west Scotland community justice authority that, in its first year, a project there had helped to reduce breach rates from more than 30 per cent to about 14 per cent, which led to a corresponding reduction in the number of women going to prison. Although CJAs have a target of reducing reoffending by 2 per cent by 2011, the Scottish Government does not appear to have an overarching target. A more defined and rigorous target might help to focus and co-ordinate efforts. Money must be directed carefully.

I welcome the excellent comments that have been made on mental health. The committee report highlights the need for improvements to the provision of medical records. Courts should always have access to health information prior to sentencing and, as Malcolm Chisholm and others said, the information should be available to the prison when women are sentenced. The committee is keen to monitor the impact of transferring responsibility for health care in prisons to the NHS, as we believe that it will have a

massively positive impact by joining up health care services with other prison services. For throughcare to be successful, women need consistent and trusting relations to be built with an outside worker before they are released. The services should be a continuation of what is provided in prison, rather than something distinct.

We heard important points about the rights of the child from the committee convener, Richard Baker, Bill Kidd and others. I hope that the cabinet secretary has listened to them. The Scottish Government's response to the report did not address directly the committee's recommendations on the need to put children's rights first. Children's right to visit their parent should not be withdrawn because the offender has failed a drugs test, for instance. That is punishing the child.

The Government stated in its response that the SPS does not have enough evidence to justify the introduction of speech and language therapy programmes at Cornton Vale. That has been disputed, but the point highlights a wider issue about the lack of information collection on female offenders and ex-offenders.

There has been an interesting debate on sentencing. The committee and I look forward to receiving the results of the research on that and the guidelines on sentencing of female offenders.

The Equal Opportunities Committee report has helped move on the debate on female offenders in the criminal justice system. I welcome the positive tone of the Scottish Government's written response. The Government seems to be moving in the right direction, but we must ensure that the forthcoming SPS strategy on women offenders is implemented robustly and timeously. The committee will continue to take an interest in the Scottish Government's progress. Let us ensure that, in the coming decade, the number of women prisoners stops increasing and that we do not have to repeat the debate again and again in the years to come.

Point of Order

16:59

Christine Grahame (South of Scotland) (SNP): On a point of order, Presiding Officer. I hope that you received a detailed letter from me on the point of order that I intended to raise before decision time. It follows on from yesterday's points of order regarding the Parliamentary Bureau's decision on setting up an ad hoc committee to consider Margo MacDonald's End of Life Assistance (Scotland) Bill.

I refer you to the statement by Paul Martin at column 23701 of the *Official Report* of yesterday's meeting. He made it clear that there are cases for the Health and Sport Committee and the Justice Committee to be nominated as lead committee on the bill. He went on to say that, because of that, the bureau had opted for an ad hoc committee.

Mike Rumbles gave a different explanation. He said that it was

"because the bill clearly deals with serious moral and ethical issues and is not only a health matter."

He went on to say that

"Some business managers argued that the Justice Committee has a major role, too."—[*Official Report*, 10 February 2010; c 23702.]

Presiding Officer, in my subsequent point of order, at column 23703 of yesterday's *Official Report*, I referred you to the guidance for Parliamentary Bureau members, which states:

"Where there are any overlapping remits or doubts as to the most appropriate committee, committee conveners and clerks will"—

I stress "will"—

"prior to making recommendations, hold discussions with the clerks".

Discussions were not held. The key word is "will": the provision is mandatory. With respect, Presiding Officer, I do not think that you responded to that point. It would be of assistance if you could do so tonight.

I refer to rule 6.13.1 with regard to the appointment of an ad hoc committee. It is of course quite competent, under rule 6.1.3, for the bureau to propose the establishment of such a committee. However, in my view rule 6.1.3 must be read together with rule 6.2.1 and rule 6.13.1. I will take your guidance on that. Rule 6.2.1 says:

"A committee shall examine such matters within its remit (referred to as 'competent matters')".

I interpret "matters" to include bills, as well as inquiries, petitions and so on. I consider that that is relevant to our reading of rule 6.13.1, which says:

“Any question whether a matter is within the remit of a committee shall be determined by the Parliamentary Bureau.”

So far, so good. However, rule 6.13.1 continues:

“The Parliamentary Bureau shall consult the Conveners Group on any such question.”

The bureau did not so consult. Again, the important word is “shall”—the provision is mandatory.

Presiding Officer, I seek your guidance on whether in this instance the bureau breached its obligations under rule 6.13.1. [*Applause.*]

The Presiding Officer (Alex Fergusson): We do not need applause for points of order, thank you.

Ms Grahame, I am grateful for the advance notice of your point of order. I believe that I dealt yesterday with the point that you have asked me to look at again. I think that I dealt with it firmly. Your point of order yesterday was predicated on the first paper that was received by the bureau. As I pointed out yesterday, the bureau then received another paper, after which it made its decision. That decision, which was to propose the establishment of a committee to consider the End of Life Assistance (Scotland) Bill, was made under rule 6.1.3. Under that rule—the one under which the decision was made—there is no requirement to consult the Conveners Group on the proposal. Rule 6.13.1 therefore does not apply.

For the avoidance of doubt, I repeat what I said yesterday. The bureau has not breached standing orders. I hope that that is quite clear, and I hope that it is the last that we will hear of the matter.

Margo MacDonald (Lothians) (Ind): On a point of order, Presiding Officer.

The Presiding Officer: I had a funny feeling that that was coming.

Margo MacDonald: I have written to you, Presiding Officer, and I apologise if my letter has not yet reached you. You said that a paper that went to the bureau determined the outcome of yesterday’s proceedings. On the basis of what you have ruled, is there anything that says that the whole Parliament cannot now know the contents of that paper?

The Presiding Officer: It was not the bureau that determined the outcome of yesterday’s proceedings, but the Parliament. I think that that is as far as we need to go.

Bribery Bill

17:03

The Presiding Officer (Alex Fergusson): The next item of business is consideration of motion S3M-5719, in the name of Kenny MacAskill, on the Bribery Bill, which is United Kingdom legislation.

Motion moved,

That the Parliament agrees that the relevant provisions of the Bribery Bill, introduced in the House of Lords on 19 November 2009, relating to bribery and corruption, so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.—[*Kenny MacAskill.*]

The Presiding Officer: The question on the motion will be put at decision time.

Crime and Security Bill

17:03

The Presiding Officer (Alex Fergusson): The next item of business is consideration of motion S3M-5718, in the name of Kenny MacAskill, on the Crime and Security Bill, which is United Kingdom legislation.

Motion moved,

That the Parliament agrees that the relevant provisions of the Crime and Security Bill, introduced in the House of Commons on 19 November 2009, relating to the regulation of the private security industry, so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.—
[*Kenny MacAskill.*]

The Presiding Officer: The question on the motion will be put at decision time.

Parliamentary Bureau Motion

17:04

The Presiding Officer (Alex Fergusson): Members should be aware that the revised version of section A of today's *Business Bulletin* is available at the back of the chamber and has been e-mailed to members. It includes a Parliamentary Bureau motion, which sets out the proposed Scottish National Party membership of the End of Life Assistance (Scotland) Bill Committee, and a business motion that revises business for Wednesday 24 February.

I ask Bruce Crawford to move motion S3M-5751, on membership of the End of Life Assistance (Scotland) Bill Committee.

Motion moved,

That the Parliament agrees that Michael Matheson and Ian McKee be appointed as members of the End of Life Assistance (Scotland) Bill Committee.—[*Bruce Crawford.*]

The Presiding Officer: The question on the motion will be put at decision time.

Business Motion

The Presiding Officer (Alex Fergusson): The next item of business is consideration of business motion S3M-5755, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a revision to business for Wednesday 24 February.

17:04

The Minister for Parliamentary Business (Bruce Crawford): I will explain the necessity for a revised business motion. A meeting of the Parliamentary Bureau was held this afternoon, commencing at 2.30 pm. At that meeting, business managers made a request to the Government to schedule a ministerial statement by the Cabinet Secretary for Health and Wellbeing.

Having considered the request, the Government agreed that such a statement should be scheduled. It also suggested that the most appropriate time for the statement would be the first opportunity for business on Wednesday 24 February at 2.30 pm. The rationale for agreeing to a statement at that time was that, while the bureau was discussing the issue of a ministerial statement by the Deputy First Minister, she was in the chamber in her role as the Cabinet Secretary for Health and Wellbeing, dealing with health questions. Immediately after health questions, she took part in the four nations health ministers teleconference on the future vaccine programme for swine flu and issues relating to management of the vaccine. In other words, Nicola Sturgeon was fully engaged in her job as Cabinet Secretary for Health and Wellbeing and was being held accountable in the chamber for the stewardship of the national health service in Scotland.

Presiding Officer, you will be aware that the issues were raised and robustly discussed at First Minister's question time. If the demand is now for a more detailed statement from the Deputy First Minister, surely all members will agree that the proposed timescale is entirely reasonable. On reflection and with the information that I have made available, I hope that all members will agree that the matter has been dealt with appropriately.

The proposal to hold a ministerial statement at 2.30 pm on Wednesday 24 February was put to, and agreed by, the Parliamentary Bureau. Therefore, the bureau has lodged a revised parliamentary business motion, and I recommend that it be accepted by the Parliament.

I move,

That the Parliament agrees the following revision to the programme of business for Wednesday 24 February 2010—

after

2.30 pm Rev Alex Noble, Saltcoats North Parish Church, Ayrshire

followed by Parliamentary Bureau Motions

insert

followed by Ministerial Statement: Representing Constituents

Motion agreed to.

Paul Martin (Glasgow Springburn) (Lab): On a point of order, Presiding Officer. Section 8.1.1 of the code of conduct for members of the Scottish Parliament states:

"It is expected that each member will take on a case when approached although it is recognised that there may be legitimate reasons for a member to decline a constituent's case in certain circumstances".

The code then gives some examples of such circumstances, but it is stressed that it is not an exhaustive list.

This morning, the First Minister interpreted that rule as placing MSPs under an "absolute obligation" to take on constituents' cases. That statement is grossly inaccurate.

Members: That is not a point of order.

The Presiding Officer: Order.

Paul Martin: The rule seems very clear: there are circumstances in which MSPs are entitled to act according to the code of conduct.

As the Presiding Officer, you are aware of the debate on section 8.1.1 this morning and how the First Minister interpreted it. Will you give a ruling for our guidance to ensure that we are able to carry out our duties as members of the Scottish Parliament?

The Presiding Officer: What I will do, because I have received a number of requests from members and business managers, is read out verbatim rule 8.1.1 from the code of conduct. It reads as follows:

"Every constituent is represented by one constituency MSP and seven regional MSPs. It is expected that each member will take on a case when approached although it is recognised that there may be legitimate reasons for a member to decline a constituent's case in certain circumstances, for example, where a constituent requests an MSP to take inappropriate action, or if that case seeks action which would represent a conflict of interest with existing casework or is contrary to the member's political beliefs. If so, the member would ordinarily be expected to inform the constituent that the member is not taking up the case."

Paul Martin: On a point of order, Presiding Officer. Given your clear ruling on the issue, I refer you to the Scottish ministerial code—

The Presiding Officer: Mr Martin, I have not made a ruling; I have read out the code of conduct verbatim.

Paul Martin: Presiding Officer, you have reiterated standing orders and I ask to be allowed to continue with the point of order. Other members have been given the opportunity to make points of order today and I wish to be afforded the same opportunity.

The ministerial code states:

“It is of paramount importance that Ministers give accurate and truthful information to the Parliament, correcting any inadvertent error at the earliest opportunity.”

Given your clarity on the standing orders, which rule that the First Minister’s statement was incorrect when he paraphrased the standing orders earlier today, will you ask him to correct his statement “at the earliest opportunity”?

The Presiding Officer: As Mr Martin knows well, I cannot ask the First Minister to do that. The matter is for the ministerial code, and we all know by now how that works.

Decision Time

17:10

The Presiding Officer (Alex Fergusson): We now come to decision time—[*Interruption.*] Order. There are nine questions to be put as a result of today’s business.

The first question is, that motion S3M-5650, in the name of Alex Neil, on the Home Owner and Debtor Protection (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees that the Home Owner and Debtor Protection (Scotland) Bill be passed.

The Presiding Officer: The next question is, that amendment S3M-5720.2, in the name of Pauline McNeill, which seeks to amend motion S3M-5720, in the name of Fiona Hyslop, on access to BBC Alba, be agreed to.

Amendment agreed to.

The Presiding Officer: The next question is, that amendment S3M-5720.1, in the name of Ted Brocklebank, which seeks to amend motion S3M-5720, in the name of Fiona Hyslop, be agreed to.

Amendment agreed to.

The Presiding Officer: The next question is, that amendment S3M-5720.3, in the name of Iain Smith, which seeks to amend motion S3M-5720, in the name of Fiona Hyslop, be agreed to.

Amendment agreed to.

The Presiding Officer: The next question is, that motion S3M-5720, in the name of Fiona Hyslop, on access to BBC Alba, as amended, be agreed to.

Motion, as amended, agreed to,

That the Parliament welcomes the contribution made by BBC Alba to Scottish culture and the promotion of the Gaelic language since its launch in September 2008; believes that BBC Alba’s growing viewership, along with the direct employees and the independent broadcasters working for the channel, requires assurances about its long-term economic and cultural future; believes that this contribution would be even greater if BBC Alba was available on a wider variety of broadcasting platforms; and therefore calls on the BBC management and Virgin Media to resolve the ongoing dispute regarding carrying BBC channels on the cable network to ensure the widest possible access to BBC Alba; urges the BBC Trust to decide to make BBC Alba available on Freeview following its recent consultation on this issue, however the removal of existing BBC radio stations from the digital terrestrial TV platform in Scotland should not have to be a consideration in that decision; further believes that all Scottish residents should have access to the full range of broadcasting following digital switchover, and calls on the UK Government to require that all relay transmitters in Scotland are capable of transmitting the full range of Freeview channels by the 2010 and 2011 launch dates.

The Presiding Officer: The next question is, that motion S3M-5679, in the name of Margaret Mitchell, on the Equal Opportunities Committee's report on female offenders in the criminal justice system, be agreed to.

Motion agreed to,

That the Parliament notes the conclusions and recommendations contained in the Equal Opportunities Committee's 3rd Report 2009 (Session 3): *Female offenders in the criminal justice system* (SP Paper 332).

The Presiding Officer: The next question is, that motion S3M-5719, in the name of Kenny MacAskill, on the Bribery Bill, which is United Kingdom legislation, be agreed to.

Motion agreed to,

That the Parliament agrees that the relevant provisions of the Bribery Bill, introduced in the House of Lords on 19 November 2009, relating to bribery and corruption, so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.

The Presiding Officer: The next question is, that motion S3M-5718, in the name of Kenny MacAskill, on the Crime and Security Bill, which is UK legislation, be agreed to.

Motion agreed to,

That the Parliament agrees that the relevant provisions of the Crime and Security Bill, introduced in the House of Commons on 19 November 2009, relating to the regulation of the private security industry, so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.

The Presiding Officer: The next question is, that motion S3M-5751, in the name of Bruce Crawford, on committee membership, be agreed to.

Motion agreed to,

That the Parliament agrees that Michael Matheson and Ian McKee be appointed as members of the End of Life Assistance (Scotland) Bill Committee.

General Practice Week

The Deputy Presiding Officer (Alasdair Morgan): The final item of business is a members' business debate on motion S3M-5469, in the name of Dr Richard Simpson, on celebrating the first-ever general practice week in Scotland. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes that more than 21 million patient consultations take place in general practice in Scotland every year; is proud of the high quality service provided by GPs and their practice teams every day, and welcomes the first ever General Practice Week in Scotland, from 8 to 14 February 2010, hosted by the British Medical Association Scotland in partnership with the Royal College of General Practitioners Scotland, which aims to celebrate the very best of NHS general practice in Scotland.

17:13

Dr Richard Simpson (Mid Scotland and Fife) (Lab): I am grateful for the opportunity to praise the fantastic work that general practitioners and their staff do all over Scotland. I thank the members who signed the motion in my name and who have remained to speak in the debate.

Throughout Scotland, from single-handed rural one-person GP surgeries to busy multipartner practices, which are mainly in our cities, the whole range of practices provides an excellent service to us. I make no apology for approaching the debate from a rather biased perspective as, in a former life, I was a GP for 30 years. I declare that I am a member of the British Medical Association, which promotes general practice week, and of the Royal College of General Practitioners.

Many MSPs have had the opportunity to visit GP practices in their constituencies in conjunction with the BMA and have found that useful. General practice week aims to build on the positive feedback that was received about those visits.

Last year was busy for general practice, not only because of the recent prolonged cold weather, but most notably because of the increased pressures from the swine flu vaccination and pandemic. That is just the most recent demonstration that GP primary care has proved over the years to be the part of the national health service that is most capable of a rapid and flexible response.

The BMA's document "General Practice in Scotland: The Way Ahead—Final Report", of which members should have a copy, spells out a clear vision for the future of general practice. From about 120 responses to the association's consultation, the BMA felt that six key areas needed to be addressed to ensure that general practice meets the aspirations of patients in the

community. Those are access, out-of-hours care, health inequalities, workforce planning—the right workforce as it is called—the balance of care, and infrastructure in terms of premises and information technology. I will try to touch on some of those issues.

Don Berwick, the noted American academic, has called general practice

“the jewel in the crown of the NHS”,

and, in a recent paper in the *British Medical Journal*, has said that, if we were to lose the core values of general practice, we would all live to regret that loss. It is hard to disagree with the sentiment.

An effective GP service not only provides rapid diagnosis in an emergency but, by providing continuity in a trusting relationship between the patient and primary care team, is the bedrock for prevention, supported lifestyle changes, self-management of long-term chronic conditions and family support.

Access is a matter for discussion. When I became a consultant psychiatrist, I found that too many practices had used the Scottish flexible approach of the 48-hour target for the time within which a patient has to be seen by a health professional to introduce unacceptable appointment systems. Patients had to phone at 08:00 to get an appointment and sometimes then spent an hour on the phone only to be told that, unless it was an emergency, they had to call again the next day.

It is very important that the Government works with the BMA and the Royal College of General Practitioners to reward continuity and good access systems that suit individual localities. We must tackle the injustices that will arise from responses to poorly validated access questions in the current quality and outcomes framework survey. The QOF survey has done us a disservice in that regard; it has created—reasonably and appropriately—a lot of resentment among general practitioners.

In the main, health mostly does not happen in hospital; it happens at home and in the workplace, school and community. Health is not just about the absence of disease. It is not even just about fitness. It is about the mental and physical wellbeing that gives us the energy, hope and self-esteem to achieve what we want to achieve. Looking after the health of the whole community is the job of general practice, primary and community health services and social services, working together to provide genuinely holistic health services close to home. Health professionals need to be well connected to the other services that are provided in their area, particularly local council services.

There is too much division between health and social services sectors. Indeed, divisions between GPs, hospital consultants, social care workers, public health officials and allied health workers have all deepened. Those divisions have shifted the focus of the professional from the patient as an individual to the part of the patient that the professional is servicing. That does not make it easy for the professional to consider the whole health and wellbeing of the person. I wish the Government success in its integrated resource approach, which is the latest Government effort to achieve integration. I hope that it is more successful than the joint future programme with which the previous Government wrestled over a number of years.

I read this recently:

“Hospitals, as most GPs will tell you, are foreign countries; they do things differently there ... Hospital specialists still routinely refer patients to one another without any reference to the patients’ GPs, whilst the tendency of hospitals to call patients back for further outpatient consultations repeatedly, even though there is no obvious medical benefit for doing so, is still too prevalent. Encouraging hospitals to do less will require more than just a review of their funding arrangements therefore; it will require a re-examination of the fundamental ethos that governs the working practices of hospitals.”

Sadly, we still have a situation in Scotland where the poorer someone is, the less healthy they are. Scotland has pockets of real poverty. Poorer people tend to fall sick more often and have long-term illnesses and long-term poor health. As Professor Graham Watt has urged, if we want everyone to be healthy and if we want to improve the quality of care in our hospitals, we need to ensure that GPs in poor areas are given extra resources with which to do their job well.

Primary care needs modern premises. With capital budgets being restrained, there are serious concerns about the future premises replacement programme. Primary care needs modern IT systems. The demise of the general practice administration system for Scotland—it was almost a national system for Scotland—reflects very badly on our ability to make public sector IT software work. I am concerned that the replacement system may prove as inadequate to the task as GPASS proved to be.

In England, Labour has chosen a combination of approaches, based on patient choice, underpinned by commissioning or purchasing—initially by primary care trusts and then by GPs—and linked to foundation hospitals, which have achieved a level of service and governance, both clinical and financial, that allows them freedom that is not afforded to ordinary NHS hospitals. In Scotland, we have chosen a quite different approach. The challenge will be, with that approach, to match the progress that the NHS in England is undoubtedly

making. The intention must be that, eventually, people will expect rarely to see the inside of a hospital. Hospitals will be seen no longer as the centre of the health service but as an essential high-quality—and, no doubt, high-cost—but increasingly smaller backstop for things that cannot be accommodated in the service that is provided in local communities, which is the front line for the new NHS. Everyone will understand that the local services that the primary care team provides bind together—or should bind together—the whole NHS around the individual's personal needs.

It is disappointing that Audit Scotland has been unable to identify much in the way of a shift in the balance of resources to match the intended shift in care. In England, primary care trusts are required to define and finance such a shift in their annual plans. I ask the minister whether there is anything comparable in Scotland.

I commend to members the BMA's final report on general practice in Scotland and look forward to the report by the Royal College of General Practitioners in the autumn. I hope that all of us can work together to resolve issues relating to access, out-of-hours services and the workforce and to create systems that support what all of us seek—a continuing rise in the quality of primary care, so that it remains the jewel in the crown and a world leader.

17:21

Ian McKee (Lothians) (SNP): I congratulate Richard Simpson on securing this important debate. He described general practice as the jewel in the crown of the national health service, and rightly so. A health service in which every citizen is registered with a GP practice and receives top-class primary care and appropriate referral, if necessary, is one that many envy and which acts as an exemplar for health services elsewhere in the world. It is also a trailblazer in other ways. When I started out in general practice years ago, the only experience that I had before seeing patients was 12 months in hospital jobs—I had to learn the trade as I went along. Now, rightly, many years of training are required before entry into general practice, and regular continuing professional training and assessments ensure that standards are maintained thereafter. Nowadays, patients can be confident that the GP caring for them is experienced and up to date.

Having said that, I think that there are some areas of concern. The first relates to the changing role of the GP in the health service. Once that role was obvious. He or she—I will use the word "she" from now on, as most GPs today are female—was the patient's advocate; loyalty was entirely to the patient. However, now the GP has an increasing

responsibility to the community, too. She must bear in mind not just whether a medicine will help a patient but whether the public purse can afford it. There is also the growing public health role, which can cause conflicting loyalties. For example, I can envisage circumstances in which the lifelong prescription of a statin for raised cholesterol may be recommended if population studies are taken into account but not when the needs and preferences of the individual patient are considered. I wonder whether all patients realise that a doctor's income may suffer if they decide, on perfectly reasonable grounds, to refuse a prescription. Will that affect the way in which doctors counsel patients? I think that it could.

That brings me to the subject of targets in primary care. No one can doubt that the introduction of the quality and outcomes framework has been beneficial. The systematic search for hidden chronic disease has vastly improved standards of health care. However, I wonder whether the use of targets is becoming slightly counterproductive. I say that for two reasons. First, there are many conditions that, although important, do not lend themselves to the development of targets and therefore risk being treated as of lesser importance. Secondly, targets that are applied nationwide, without attention to the individual needs of different communities, risk disadvantaging practices that serve areas of deprivation, for example, where targets often take superhuman efforts to achieve and divert attention from more important problems.

A suggestion is that some of the QOF structure should be replaced by a system in which individual practices negotiate development plans with health boards that are specific to the needs of the area that they serve, and progress is charted in regular follow-up meetings. If GPs were remunerated for that rather than for meeting all the QOFs, that could be a way of channelling resources to deprived areas in the way that Dr Simpson requested.

My last point is concern that we have concentrated over recent years on the accessibility of primary care at the expense of continuity—Richard Simpson also made that point—which is a feature that has been so valuable to patient and doctor in the past. The theoretical idea of one doctor being responsible for a patient 24 hours day, 365 days a year, is obviously undesirable. However, in our haste to develop targets, have we made it more difficult for a patient, when feeling unwell, to access care from someone who knows them and whom they trust? Does the fact that general practice is the only service sector to reduce its hours of availability to the public mean that it risks losing the public support that has sustained it so well in the past? The profession

must take care that short-term gain does not become its long-term loss.

I could have dwelled on many other points, including the changing role of the nurse in primary care—

The Deputy Presiding Officer: You are over your time, Dr McKee.

Ian McKee:—but time does not permit, so I will sit down.

The Deputy Presiding Officer: The appointment is over.

17:26

Mary Scanlon (Highlands and Islands) (Con): I thank Richard Simpson for securing the debate during general practice week in Scotland. I thank him, too, for organising the briefing last night at which I had the opportunity to meet two GPs from the Highlands, Dr Miles Mack and Dr Susan Hussey.

My starting point in preparation for the debate was my members' business debate in national general practice week in September 2002, when we were meeting up the road. The motion recognised

“the importance of primary care”,

appreciated

“the vital role GPs play”,

and supported Malcolm Chisholm's statement that

“if it can be done in primary care, it should be done in primary care”.

In that debate, I stressed the nine years of training that GPs had and the fact that over 90 per cent of NHS contact was in primary care. I stated:

“There is no doubt that general practice and the primary health care team is the heart and the cornerstone of the NHS in Scotland.”

That was eight years ago, before the introduction of the new general medical services contract, about which Malcolm Chisholm, who was then Minister for Health and Community Care, said:

“The contract gives renewed focus to quality and outcomes”.—[*Official Report*, 25 September 2002; c 14090, 14104.]

There is no doubt of the benefits of QOFs to patients, but there is also no doubt that the contract can be reviewed and improved. There is also no doubting the excellent service in general practice, including that provided by nurses, health visitors and podiatrists. However, it is a bit difficult to relate the benefits of the new contract to the out-of-hours service, from which 95 per cent of our GPs have opted out.

In this context, I place on record my thanks to the good people of Kinloch Rannoch whose petition to Parliament prompted an inquiry by the Health and Sport Committee into the provision of out-of-hours care in Scotland. Although the committee has not concluded its report and recommendations, there is no doubt that the inquiry has highlighted many issues in out-of-hours services that need to be addressed. Audit Scotland has confirmed that there is

“a lack of clear quality standards”

for out-of-hours services, and NHS Quality Improvement Scotland gave the committee an assurance that it will look at that issue.

The committee was told during the inquiry that, since the introduction of the new contract, calls to the Scottish Ambulance Service have increased by 35 per cent during GP working hours and by 42 per cent out of hours; that presentations to accident and emergency departments have increased; and that there is greater utilisation of NHS 24. I look forward to NHS 24 making more use of telehealth and working with GPs on that issue throughout Scotland.

We now have a very good emergency response service, but many people in Scotland are rightly concerned about the corresponding loss of clinical care and the previous excellent access to the diagnostic skills of the GP. We must thank the folk of Kinloch Rannoch for raising their concerns about the difference between emergency response and quality clinical care. One thing is certain: the Ambulance Service, NHS 24, A and E, minor injuries units and GPs must work in much closer partnership, although I appreciate that that is already happening in many areas.

On this day of celebrating general practice, I highlight some points that have been made by GPs who are still providing out-of-hours care, and who made written submissions to the Health and Sport Committee—and these are in the public domain. Dr Helen Stewart of Torridon in Wester Ross states:

“My only conclusion can be that a GP is the most sustainable and cost-effective way to provide that service.”

The Deputy Presiding Officer: The member should wind up.

Mary Scanlon: I will just give members one more example, from Shetland, which I think is an important one, and I will finish there:

“I live amongst my patients and am part of their community.

The retained fire service and coastguard services turn out to emergencies and therefore why not the doctor who lives in the community.”

17:30

James Kelly (Glasgow Rutherglen) (Lab): As other members have done, I congratulate Richard Simpson on securing the debate and, as Mary Scanlon said, on organising the very successful reception last night. Without detracting from Ian McKee's excellent contributions to the Parliament, I would say that Richard Simpson brings his experience as a GP to the chamber and the committees of the Parliament. There is no doubt that the Parliament is better for that expertise.

In preparation for general practice week I visited the local Craigallian Avenue practice in Halfway in my constituency, where I have been registered as a patient since I was nine. It was interesting to return there this week. Fortunately, I do not have to visit the practice that often, but when I do I am always reassured by the excellent service that the GPs and the team there provide.

I have young children and elderly parents. People at that stage often find themselves in and out of GP surgeries. We look to GPs for reassurance as they treat those who are close to us—and we often get it; that is why, according to the BMA survey, 82 per cent of people said that they got a lot of reassurance and support from their GPs.

I am registered at the Craigallian Avenue practice but, like a good constituency MSP, I manage to have an interest in another practice, as my wife and children are registered at a practice nearer home, in Rutherglen. As well as paying tribute to the Craigallian Avenue practice, I pay tribute to the work of Dr Colville, who is on the Scottish GPs committee, and to others who work at Rutherglen health centre.

There is no doubt that GP practices have changed over the years. When I was a youngster, one GP in Cambuslang used to chain-smoke his way through consultations. Thankfully, times have changed and we have moved on. The nature of GP practices has changed too; work is done by practice nurses and health visitors, and coverage is more comprehensive. That helps not just with diagnosis but with anticipating potential health problems, which is to the betterment of communities throughout Scotland.

GPs are the driving force of the NHS and have a big role to play in tackling many of the issues that we discuss at the Parliament, such as health inequalities. In the west of Scotland, health inequalities remain a very challenging issue, but the way in which practices are organised there allows them to tap in and track heart disease, lung disease, liver disease and cancer from an early stage and GPs are able to prolong people's lives.

I share Richard Simpson's disappointment at the demise of the GPASS IT system. I remember one

of my very first jobs as an analyst/programmer a very long time ago. I was not directly involved in GPASS, but I worked in a team that worked on its roll-out. I know from that, as well as from various experiences of GP surgeries over the years, how important a system it was. IT facilities are crucial in helping GPs with their work and in helping to ensure that patients are given an appropriate service.

I congratulate Richard Simpson on securing the debate and commend the work of GP practices throughout Rutherglen and Cambuslang in my constituency.

17:35

Ross Finnie (West of Scotland) (LD): I, too, congratulate Richard Simpson—notwithstanding the obvious bias that was demonstrated by his declaration of interests—on securing a debate on such an important issue. I also congratulate him on securing it on 11 February, which is an important date for me for two reasons.

One of the first issues that gripped me as a young politician was discrimination against coloured people. Along with many others who are now members of this Parliament, I went on anti-apartheid marches and the like. Today is important because it is 20 years since the release of Nelson Mandela.

Today is important also because it is 64 years to the day since I became a patient of the practice by which I am still looked after. Sadly, the first doctor who looked after me has passed on. Two others have retired because of the robust health they have given me. My current doctor spends most evenings wondering what on earth she did to deserve me as a patient.

As Dr McKee mentioned, the important point is the continuity of the care that is offered and provided by general practice. The motion celebrates Scotland's first ever general practice week. In celebrating the week, we celebrate the work of general practice and its contribution to society.

In the many years since the establishment of general practice, there have, of course, been enormous changes, but despite those changes and the significant difficulties that have been faced, GPs remain at the core of the delivery of health services in our community. I pay tribute to what they have done and hope that they will continue to be at the forefront of the delivery of care. I think that GPs will continue to be at the forefront of the delivery of care, but we must recognise that the model through which that care will be delivered has altered and will continue to alter. Although GPs will undoubtedly not lose their predominant role, they will not necessarily be the

only people in what will increasingly become a multidisciplinary team who will be involved in organising the delivery of care.

The issues that GPs have raised in “General Practice in Scotland: The Way Ahead” strike a chord with anyone and everyone who has read it, who will recognise that simply because GPs are in touch and understand the issues that confront us, the agenda that is set out in that document is undoubtedly one that we can all warm to, notwithstanding the fact that under each sub-heading there are issues that need to be resolved—that is admitted in the document.

Access has changed because work patterns and social habits have changed. The model of access must reflect change and respond to it. On out-of-hours care, in no way do we suggest that there should ever be a return to doctors having to work 24/7, but we need to recognise that although GPs have played and will continue to play a critical role, that must be interfaced with their delivery of out-of-hours care alongside other health professionals. That issue, which GPs highlight in “The Way Ahead”, has not been wholly resolved and it needs to be addressed. Because GPs play such a central role in our communities, they are the people who will be able to tell us about health inequalities.

I hope that, in taking the opportunity that the motion gives us to celebrate GPs’ success and to look forward to their continuing to be at the core of our communities, we recognise that, in future, they will be part of a team and that some of the issues that they have raised in their document need to be properly addressed.

17:39

Malcolm Chisholm (Edinburgh North and Leith) (Lab): I thank Richard Simpson for securing the debate and for arranging the reception last night, at which I was pleased to talk to quite a few GPs from across Scotland, including one from Leith, in my constituency. I also thank all the GPs and primary health care teams throughout Scotland for all the work they do—especially my GP in the Leith Walk surgery, who is simply the best and whom I would be very happy to nominate as GP of the year. However, I am sure that I am not the only person to feel that way about their GP, because the relationship between an individual and their GP is central to the NHS. Indeed, as the very great Don Berwick—I think Richard Simpson thought I was going to say “the very great Richard Simpson”—said in a recent article, it is the

“jewel in the Crown of the NHS.”

It was very kind of Mary Scanlon to remind me of one of my better soundbites—one of my few soundbites, actually—when she quoted my statement that

“If it can be done in primary care, it should be done in primary care.”—[*Official Report*, 25 April 2002; c 11239.]

I think that that embodies an important truth. There have been developments that have moved the health service in that direction over the years, but I am sure that we all agree that it could go further.

Mary Scanlon’s second comment, about the contract, was not quite so kind. I want gently to challenge her on it, because I believe that what I said about giving

“renewed focus to quality and outcomes”—[*Official Report*, 25 September 2002; c 14104.]

was in fact one of the results of the GP contract.

Both the consultants contract and the GP contract have been subject to quite a lot of criticism. I will not talk about the former in this debate, but I have always been pleased with the GP contract, not least because of the quality and outcomes framework and the idea of rewarding health professionals because of positive actions that they take. It is a shame that most of the public probably do not know about the quality and outcomes framework, but many thousands of people benefit from it every day of the year. It was also one of the subjects that came up at the reception last night. Notwithstanding GPs’ particular criticism about the way in which the access points are arrived at, they recognise that it has brought enormous benefits to patients, particularly in respect of preventive health care—especially on issues to do with heart disease, stroke and diabetes.

Obviously, the minister and the professionals will listen to some of the points that Ian McKee made, but the principle that was established is good and, fundamentally, it was a good contract. I accept that there are issues in rural areas that the Health and Sport Committee is considering but, in urban areas, such as the one that I represent, out-of-hours arrangements are working very satisfactorily.

The BMA has produced a report in connection with general practice week. Most of us are happy to go along with a lot of the recommendations in the report, which goes with the general direction of travel on health in Scotland. I think that the minister recognises that there is some continuity on that between different Administrations. It was encouraging to have that general direction of travel, particularly the importance that continues to be attached to general practice in Scotland, endorsed by the health professionals last night. In fact, they contrasted the situation here with some developments in England. I know that the minister will look at the recommendations in the report and respond positively to them. I look forward to hearing her now.

17:43

The Minister for Public Health and Sport (Shona Robison): I am happy to be closing this debate about general practice week and the vital role that our GPs and practice staff play in providing patient care. I congratulate Richard Simpson on securing the debate.

The Scottish Government is, of course, firmly committed to general practice. As has been said, GPs and their staff are the cornerstone of primary care, which accounts for 90 per cent of all NHS contacts with patients. They provide the dedicated professional service and continuity of care that we know patients value hugely. I pay particular tribute to GPs for the role that they have played over the past year in two specific areas: first, in helping—as Richard Simpson mentioned—to combat the threat of swine flu, and, secondly, in respect of the BMA's high-profile role in supporting our efforts to tackle Scotland's problem with alcohol.

The Government has shown its commitment to GPs in particular by devoting record resources to primary medical services and by promoting legislation to enshrine their traditional role. I am sure that everyone is aware of the Tobacco and Primary Medical Services (Scotland) Bill, which was passed by the Parliament just two weeks ago. Part 2 of that bill strengthens the way in which primary medical services will be provided in the future in support of our public health priorities. It is an endorsement of the model of general practice that we see in Scotland today—a model of which we can justifiably be proud. Malcolm Chisholm made the important point that that has been our direction of travel since before 2007, but general practice must keep moving, evolving and modernising.

General practice is often cited as one of the areas of the health service that is most valued by the public: the relationship that patients have with their practice is based on trust and confidence. It is right to recognise the valuable contribution that general practice staff make to improving the health and wellbeing of the people of Scotland.

Our knowledge of the current state of general practice in Scotland has been enhanced by the recent publication of the results of the national primary care workforce survey, which was developed to address gaps in information about the GP and practice nurse workforce. The figures show a profession that has reasons to look to the future with confidence. The latest survey shows that the number of GPs in Scotland has risen steadily since 2004 and, crucially, that the number of GP trainees has increased by 67 per cent. That shows that a career in general practice continues to be attractive. With women GPs outnumbering men GPs, as Ian McKee pointed out, it is also seen as a flexible career choice that can

especially suit those who have caring responsibilities. In addition, there is clear evidence that numbers of other practice staff, such as nurses, have risen in recent years, and I am encouraged by that trend.

Earlier this week, the Cabinet Secretary for Health and Wellbeing announced her commitment, through a new quality strategy, to the implementation of a shared approach to achieving world-leading quality in our NHS. It is an ambitious strategy with the key aim of involving everyone in Scotland in making a real difference to the quality of health care provision. In preparing for the new approach, we have listened carefully to what patients, carers and the people who are delivering health care services across the NHS have said they want. They want a compassionate health service and real partnership between clinicians, patients and others with clear communication. It has been said on a number of occasions that the patient-doctor relationship was very different 20, 30 or 40 years ago from how it is now. That is absolutely right and proper.

People also want services to be provided in a clean and safe care environment, with continuity throughout their journey, and they want clinical excellence so that they can continue to have confidence in our NHS services. The quality strategy will achieve those things by building on the good foundations that we already have in place, with a shared vision of health care quality that is supported by the right measures.

Along with many others, I welcome BMA Scotland's report "General Practice in Scotland: The Way Ahead", which was published on Tuesday. GPs are at the heart of health care in Scotland, providing dedicated professional service and continuity of care. Nicola Sturgeon and I are encouraged by the BMA's commitment in the report to work with us to address the challenges that all parts of the NHS face and, in particular, to improve the outcomes and quality of the primary care that is delivered to patients. That is at the core of the quality strategy that I just mentioned. There are also some specific recommendations in the report—for example, on out-of-hours standards and on local support for improving access—which we strongly support. Like many others in the chamber, we look forward to discussing the report with the BMA so that we can work together for the benefit of Scotland's patients.

I add my personal thanks to all those who are involved in general practice for the part that they play in improving the health of Scotland's people, and I am grateful to Richard Simpson for highlighting that in this afternoon's debate.

Meeting closed at 17:49.

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