The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

MEETING OF THE PARLIAMENT

Wednesday 16 June 2010

Session 3

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Scottish Parliament

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[The Deputy Presiding Officer *opened the meeting at 14:15*]

Time for Reflection

The Deputy Presiding Officer (Alasdair Morgan): Good afternoon. The first item of business is time for reflection, for which our leader is the Rev Douglas Mackeddie of Maryburgh and Killearnan Free Church of Scotland.

The Rev Douglas Mackeddie (Maryburgh and Killearnan Free Church of Scotland): Presiding Officer,

"Then the officers came to the chief priests and Pharisees; who said to them, 'Why have you not brought Him?' The officers answered, 'No man ever spoke like this Man!'"

The voice of Christ. Communication is very much at the heart of what we do, whether we are interacting in the political arena, in the community, or even in the church. Effective communication is of the essence. Remember the words of a song of another generation:

"It's not what we say it's the way that we say it; that's what gets results."

In the words that I read from John's gospel—

"No man ever spoke like this Man"—

we have the effect of an all-time communicator.

Much of our communication can fall foul of an ungracious manner of presentation. It may not be that what we say is wrong, but the way that we say it. That is why I believe that it is so important for us, in the present climate, to listen attentively to not only what our saviour says in the teaching that he expounds but, just as important, the voice with which he gives his message.

"'The Spirit of the LORD is upon Me,
Because He has anointed Me
To preach the gospel to the poor;
He has sent me to heal the broken hearted,
To proclaim liberty to the captives
And recovery of sight to the blind,
To set at liberty those who are oppressed;
To proclaim the acceptable year of the LORD.'

… So all bore witness to Him, and marvelled at the gracious words which proceeded out of His mouth."

It is surely undeniable that the effect on our saviour's hearers was the consequence of not only what he said but, significantly, the way that he said it. What a communicator!

With what voice do we speak? Listen to the voice of Jesus :

"… and the sheep hear His voice, and the sheep follow Him, for they know His voice."

Centuries ago, David the psalmist offered a prayer that we should echo:

"Set a guard, O Lord, over my mouth: keep watch over the door of my lips".

That prayer is needed today more than ever.

"A careless word may kindle strife
A cruel word may wreck a life:
A timely word may lessen stress,
A loving word may heal and bless."

Lord, let us use our words to strengthen and encourage one another.

"No man ever spoke like this Man!"

Amen.

Scottish Parliamentary Corporate Body Question Time

14:18

Recruitment

1. John Wilson (Central Scotland) (SNP): To ask the Scottish Parliamentary Corporate Body how it ensures that open and transparent processes are utilised when hiring staff. (S3O-11095)

Mike Pringle (Scottish Parliamentary Corporate Body): The Scottish Parliamentary Corporate Body advertises for new staff in a variety of ways, including publishing the selection criteria to be used for the selection process.

John Wilson: I thank the SPCB for that response, but my question is really about the level of vacancies that are advertised only internally. Does the SPCB intend to recruit employees primarily from the internal pool of candidates, rather than from the much larger pool of candidates that would result from advertising positions externally?

Mike Pringle: I thank John Wilson for that supplementary question. Of 338 posts advertised since May 2003, there is an 81 per cent to 19 per cent split in favour of external adverts. When a vacancy in the Scottish Parliament comes up, managers might occasionally decide that there are internal candidates who are specifically suited for the vacancy. In that case, the post is advertised internally and internal candidates can apply. As I said, however, that is unusual, in that 81 per cent of vacancies are advertised outside—somebody in the Parliament could apply for the job as well—and only 19 per cent of vacancies are advertised internally.

Videoconferencing (Committees)

2. David Stewart (Highlands and Islands) (Lab): To ask the Scottish Parliamentary Corporate Body how many committee meetings were videoconferenced in the last 12 months. (S3O-11094)

Alex Johnstone (Scottish Parliamentary Corporate Body): From June 2009 to May 2010 a total of seven committee meetings have used the videoconferencing facilities. In addition, during the same period, the facilities were used on another 10 occasions for other committee business.

David Stewart: Does Mr Johnstone share my disappointment at the low number of full committee meetings that have been videoconferenced? Will he ask the corporate body to encourage committee conveners to make greater use of videoconferencing, both to save costs and as a contribution to carbon reduction targets? Does Mr Johnstone share my view that it is important that the Parliament joins the new revolution in communications technology?

Alex Johnstone: Let me take this opportunity to congratulate the member on his determined pursuit of this matter—it is the third, or perhaps even fourth, time that he has raised it during corporate body questions.

I agree entirely with the member's position. It is essential that teleconferencing facilities are used more extensively, particularly when there are financial constraints on the Parliament and requirements to cut carbon emissions from travel. I fully agree with the member that it should be the responsibility of the corporate body to encourage greater use of the facilities, and I assure him that we will continue to monitor the requirements in order to provide additional facilities where they are appropriate, and we will take action to encourage greater use.

Nigel Don (North East Scotland) (SNP): Further to the question and to a question that I have asked the corporate body before, I wonder whether we could discuss the issue of cross-party groups. The last time that I asked whether the videoconferencing facilities were available to cross-party groups, I was told no, because the groups are not primary parliamentary functions. I will not ask the same question again, because I know that I will get the same answer, but, given the small numbers and the fact that the use of the equipment is pretty low, will the corporate body reconsider its policy? A significant number of people in Aberdeen have a professional interest in the cross-party group on obesity, which I convene, and they cannot get here for meetings.

Alex Johnstone: I accept that the member has asked the question before and, sadly, I will give him the same answer, which is that the videoconferencing facilities, like all other SPCB resources, are provided to facilitate and enable parliamentary business. Section 6.4 of the code of conduct for members of the Scottish Parliament lays out the rules for cross-party groups, and rule 13 outlines the limitations on the use of parliamentary facilities. If the member would like to raise the matter and ask for it be discussed more widely, I suggest that he puts it in writing, and it will be given due consideration.

Video and Audio Output (Standards and Licensing)

3. Patrick Harvie (Glasgow) (Green): To ask the Scottish Parliamentary Corporate Body whether it is considering adopting open standards and fair-use licensing in relation to video and

audio output from the chamber and committees. (S3O-11096)

Tricia Marwick (Scottish Parliamentary Corporate Body): I shall deal with the question on open standards first. The SPCB is considering adopting open standards. Under our present webcasting contract all chamber business can be downloaded by external users, but it is restricted to the Windows Media file format. The contract is due to be re-let next summer, and we will consider using open standards.

The member also asked about fair-use licensing. In keeping with our commitment to making the Parliament accessible to the people of Scotland and encouraging their participation, all of our video and audio output from the chamber and committees is already free to reuse, subject to our rules of usage.

The SPCB uses the Office of the Queen's Printer for Scotland online public sector information click-use licence system for anyone who wishes to reuse video and audio output, and the SPCB is currently working with OQPS on developing new licence models for Scottish Parliament copyright material.

Patrick Harvie: I am grateful for the clarification on the question of licensing, as the contents of a debate should be available in text or in audio-video format for the people of Scotland to make use of as they see fit, including to copy freely.

On the question of open formats, after a slightly poor start, the Parliament a few years ago improved its record of trying to ensure that the video output was available to all users on all platforms. Since that time, however, criticism of the Windows Media format has grown around the world, including criticism of some technical as well as some legal aspects. The proliferation of devices that cannot play that output should also force us to question its use. In considering the use of open standards in the future, will the corporate body ensure that the maximum number of people are able to access and freely use the Parliament's video content in the maximum number of ways? That will mean catering for all devices and continuing to update our processes, rather than thinking that we have got it fixed for all time.

Tricia Marwick: I thank Patrick Harvie for his keen interest in the matter. As I say, the contract is due to be re-let next summer and we will consider using open standards. We will also consider the points that Patrick Harvie has made. Given the fact that the member seems to have a particular expertise and interest in the matter, our officials who are considering the re-letting of the contract will be very pleased to speak to him about the issue.

Staff Salaries

4. Mary Scanlon (Highlands and Islands) (Con): To ask the Scottish Parliamentary Corporate Body how many of its employees earn more than the First Minister's combined salary. (S3O-11092)

Mike Pringle (Scottish Parliamentary Corporate Body): None.

Mary Scanlon: Given the fact that four permanent employees in the core directorate of the Scottish Government have a base salary in excess of the First Minister's combined salary and the fact that 41 members of staff in the Parliament are paid more than the basic MSP salary, although they do not reach the salary of the First Minister, what form of job evaluation and appraisal is undertaken to ensure value for taxpayers' money?

Mike Pringle: I am not sure about the first part of that question. I actually said that no SPCB employee earns more than the First Minister's combined salary.

As the member rightly identifies, 41 senior members of SPCB staff—that is less than 8 per cent of the total number—earn more than an MSP. On the question whether that is good value for money, the pay scales have been adopted by the Parliament and, as people progress up those pay scales through promotion, they will be on that pay. I will look at the question in detail, as there might be something else that I need to get back to the member on.

The Deputy Presiding Officer (Alasdair Morgan): I suspend the meeting until 2.35, when the next item of business is due to start.

14:28

Meeting suspended.

14:35

On resuming—

Children's Hearings (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Alasdair Morgan): The next item of business is a debate on motion S3M-6512, in the name of Adam Ingram, on the Children's Hearings (Scotland) Bill.

14:35

The Minister for Children and Early Years (Adam Ingram): I am pleased to discuss the Children's Hearings (Scotland) Bill this afternoon. I have no doubt that the bill is not only necessary, but vital if we are to improve, strengthen and protect our unique children's hearings system—a system of which we are all rightly proud. I continue to be inspired by the work and commitment of those who work in the hearings system, and particularly those who do so on a voluntary basis.

In 2008-09, 47,178 children were referred to the children's reporter. In proposing reform, I am committed to ensuring that every child who is referred is served by a system that continues to abide by the Kilbrandon principles. The bill and the wider reforms protect the ethos that children who offend and those who require care and protection equally deserve to be considered as children in need, and that the welfare of the child is of paramount importance. However, there is no getting away from the fact that family life has changed since Kilbrandon reported in 1964. Families now face very different challenges to those that they faced 40 years ago, and the challenges that are faced by the system have changed as well.

In the early years of the hearings system, a relatively small number of children were referred to it on care and protection grounds. In 1972, 3,062 children were referred on such grounds compared with 21,594 children on offence grounds. The change in recent years is startling. In 2008-09, 39,105 children were referred on care and protection grounds. Our children's hearings system now deals with more than 10 times the number of care and protection cases that it dealt with in 1972. That is why we must have a system that is capable of dealing with the challenges that are presented today and in the future.

The Government is committed to improving the lives of all children and young people who are at risk, and that commitment is shared by members throughout the chamber. Reform of the children's hearings system is just one aspect of the activity that the Government has under way in that regard. Members will already be familiar with the early years framework and the getting it right for every child agenda, both of which are relevant to this debate.

The children's hearings system considers the toughest cases for our most vulnerable children, where compulsory measures might be needed. Life-changing decisions that affect fundamental rights are made by panel members every day. With all that is at stake, those decisions have to be right, so they need to be taken by people who feel confident and are fully supported to take them, and the best interests of the child must be paramount in those decisions.

Everything in the bill and our wider reforms leads back to the child. We must ensure that the child is at the centre of the hearing and is supported and encouraged to participate and engage in the discussions; that panel members are suitably skilled, trained and supported to engage effectively with the child; that the hearing takes place in an open, fair and consistent way and that every decision is made in that context; that the child feels that they are listened to and heard by the hearing and sees that reflected in the decisions that are made; and that the child gets the full range of services that are required to implement decisions. That needs to happen everywhere and in every case, and the bill directly contributes to meeting those principles.

In my evidence to the Education, Lifelong Learning and Culture Committee, I set out why the system needs to change. We all recognise that change can be uncomfortable and challenging, but when we take a minute to consider what is at stake—the lives of our most vulnerable children—we have no other option. We need to continue to work together to deliver change and ensure that it is the right change. I am enormously grateful to all those who continue to give their time to work through that process with us.

The most striking feature about that engagement is the number of people who arrive thinking that the system works just fine, not only in their area but across the board, until they get round the table with others in the system, start to discuss the differences in practice and hear for themselves the problems encountered by a lot of people in a lot of areas. Feedback from recent events indicated that for some they had been a real eye-opener. We are all united by the desire to make the best possible provision for Scotland's most vulnerable children, which is why I have involved the Parliament throughout the engagement process. I wrote to members between last autumn and spring this year to involve them and their constituents.

We cannot continue to have a system that has so many variances in practice and to explain them away simply as being down to local flexibility. Yes,

some areas work very well, but too many do not. I know that children's panel advisory committee volunteers have reacted strongly to that message, but I stress that that is not a criticism of the volunteers, but an identified weakness in the current system. I know from my conversations with CPAC volunteers and panel members that many agree that the standardisation of processes and standards and proper accountability are very much welcomed. Progress has been made, but we are not there yet.

The bill and wider reforms provide a unique opportunity to ensure that current best practice becomes the benchmark as we go forward; indeed, that is the only way of ensuring that all panel members are fully supported to make the right decisions for our most vulnerable children. The establishment of the national convener and of children's hearings Scotland will provide the structures needed to deliver this change, and I was heartened to see that 86 per cent of panel chairs support the establishment of that body.

The national convener will ensure that agreed national standards are met and will provide a national voice for panel members. I see no conflict with regard to the carrying out of this role. Let me be clear: the national convener will not be all powerful. He or she will advocate for panel members, not for the whole of the children's hearings system. Committee members will perhaps recall that during her evidence session the principal reporter said that she did not

"have a problem with reconciling that aspect, which is to be critical of one's own organisation's performance in order to improve it."—[*Official Report*, *Education, Lifelong Learning and Culture Committee*, 21 April 2010; c 3451.]

I have noted the committee's concern about parliamentary scrutiny of the national convener's future work. In clearly setting out the national convener's responsibilities and functions, the bill allows the flexibility to ensure that support meets any current or future needs that might emerge. Moreover, as with the principal reporter and the Scottish Children's Reporter Administration, the national convener and children's hearings Scotland can be held to account by the Parliament through the annual reporting process.

I am convinced that the scale of the reforms is wholly proportionate to achieving our objectives. Indeed it is wholly appropriate when one considers that the children's hearings system is the biggest tribunal in Scotland and the only one without a dedicated supporting body. That is incredible, especially when one remembers that it supports Scotland's most vulnerable children and is delivered largely by lay people.

As a result, I am delighted that the committee has acknowledged those issues in its stage 1 report and it gives me great satisfaction that the committee

"recommends to the Parliament that the general principles of the Bill be agreed."

I am particularly pleased that the committee recognises that

"the opportunities that"

children's hearings Scotland

"will provide for promoting consistency in quality standards across the country can be grasped without undermining the principle of local community involvement."

Indeed, I share that view. The bill puts in place a framework that will maintain the connection that panel members have with children and their local communities and provides an opportunity to improve local connections and local support to panel members across Scotland.

However, it is important to note that although it agrees to the bill's general principles, the committee has raised concerns in a number of areas. I recognise that we need to do further work and I am committed to making this bill the best that it can be. For example, I gave the committee an undertaking to address concerns about the retention and disclosure of information about children referred to a hearing on offence grounds.

I also recognise that the committee and others have concerns about new provisions in the bill on the determination of relevant person status. The points that were made on that issue in the committee's report will, like all other points, be given positive consideration, and further information will be provided to the committee as requested.

There has been wide support for providing the hearing with the means to preserve a child's confidentiality where appropriate. The bill makes new provision that would allow for that in certain circumstances. However, I understand the concerns that have been raised on the difficulties of balancing such a power with the need to respect individual rights. I will consider that issue further with a view to finding a solution that addresses concerns that have been raised.

In summary, I am happy to work through the issues that have been raised and will provide the information that the committee has requested in order to provide clarity and reassurance to it, the Parliament and our partners. I am clear that the bill will deliver the key elements of the system that our partners have told us that they want. It retains local support for panel members, local authority involvement in that support, the involvement of lay people, and children's hearings in children's local communities.

I move,

That the Parliament agrees to the general principles of the Children's Hearings (Scotland) Bill.

The Deputy Presiding Officer: I call Karen Whitefield to speak on behalf of the Education, Lifelong Learning and Culture Committee.

14:46

Karen Whitefield (Airdrie and Shotts) (Lab): I welcome the opportunity to speak on behalf of the Education, Lifelong Learning and Culture Committee in support of the Children's Hearings (Scotland) Bill.

It is often said that many other countries look on our children's hearings system with envy and that it is the jewel in the crown of our child welfare and justice systems. Such high praise often bears no resemblance to the services that are being described, but I firmly believe that we can be rightly proud of the current children's hearings system. The system, which emerged from the Kilbrandon report of 1964, represented a bold step away from the juvenile courts that it replaced. Crucially, Kilbrandon recommended that there should be a separation of the function of the courts, which was and remains to establish facts, and the function of the new hearings system, which would be to act in the welfare interests of the child.

The key features of the new hearings system were that it should be an entirely independent agency and that its membership should reflect an understanding of the local community. As the bill's policy memorandum states, the philosophy and principles that Kilbrandon set out were based on the welfare of the child,

"the consideration of needs alongside deeds; ... the appropriate forum of the hearing as the best place to make decisions on compulsory measures of supervision intended to support children through difficult times; and ... the imperative of the involvement of the child in discussions."

I reiterate those points because they are as relevant while we consider changes to the system as they were at the time of its creation. I welcome the Government's commitment to protect and strengthen those important principles in the new legislation and look forward to the minister responding in good faith to the genuine concerns that the committee raised.

Before I speak about the specific proposals in the bill, it is worth highlighting the role that the children's hearings system plays in modern Scotland. In its first full year of operation, 24,656 cases were referred to panels. Some 87.5 per cent were referred on offence grounds and 12.5 per cent were referred on non-offence or welfare grounds. However, the most recent figures are a complete reversal of those figures. In 2008-09, there were 47,178 referrals, of which 25 per cent were on offence grounds and 75 per cent were on non-offence grounds. Like the minister, I believe that it is worth highlighting that our children's hearings system in Scotland today is more about child protection and child welfare. We should constantly reflect on that during our consideration of the bill.

Given everything that I have said about the children's hearings system, the most obvious question to ask is: why change it? No system is perfect and concerns have been raised over the years about the level of consistency with which the hearings system is run throughout Scotland. There are particular concerns about variability in the standard of training that is available to panel members, limitations on the child's ability to participate effectively and a lack of effective monitoring of panel decisions. More recently, concerns have been raised about the system's compliance with the European convention on human rights. That is why the previous Scottish Executive initiated a review of the system and why the current Government introduced the bill.

The committee welcomes many of the measures in the bill and supports its general principles. However, the committee has several concerns that we would like the minister to address in the run-up to stage 2. The key concerns in our stage 1 report are about: the centralisation of responsibility for the management of the children's hearings system in the new body children's hearings Scotland; the role and powers of the national convener; the use of offence grounds to refer and the implications for later life; the definition of "relevant person"; and child confidentiality. I will speak a little about each of those concerns as well as a few others that are mentioned in our report.

The creation of children's hearings Scotland provides potential for an improved and more consistent children's hearings system in Scotland. The committee has some concerns that the centralisation of the management and support of children's panels might weaken the link between the children's hearings system and local communities. However, we also recognise the potential opportunities that CHS will provide for promoting consistency in quality standards throughout the country. We hope that that will happen without undermining the principle of local community involvement.

In addition, the committee has sympathy with those who believe that there is potential for a conflict of interest in the various roles of the national convener. That concern was made clear by a representative of North Ayrshire Council who argued:

"A number of contradictory roles would be invested in one person. The person would have the role of developing

the service and the training that pertains to it and a regulatory role, and it appears that they would have the quality assurance role. I do not think that those three roles can sit together in one person".—[*Official Report, Education, Lifelong Learning and Culture Committee*, 14 April 2010, c 3419]

We concluded that we are not persuaded that the figurehead role for the national convener as envisaged by the Scottish Government is compatible with the role of consistent direction and leadership in recruitment, selection, training and support for panel members. For that reason, we asked the Scottish Government to provide further guidance and clarification on the role of the national convener. In addition, we made clear our expectation that our successor committee should scrutinise the annual reports of children's hearings Scotland and take evidence from the national convener. Although I recognise that the minister said that the new body will be accountable to the Parliament, it is essential that it is held to regular account by the committee too, because it will have responsibility for scrutinising the work of the new agency.

Some concerns were raised about the practicalities of providing legal advice. Particular concerns were raised about the suggestion that some legal advice could be provided by telephone to children's hearings by the national convener. In acknowledging those concerns, the committee called on the minister to provide further details at stage 2 on how the provision of legal advice will work in practice.

The bill provides for the creation of a feedback loop and places a duty on local authorities to provide to the national convener on request information about the implementation of compulsory supervision orders. However, the Convention of Scottish Local Authorities believes that the information would be better circulated locally. The committee agreed with that view and asked the minister to examine the options for having a localised feedback loop.

The committee agreed with the concerns of COSLA and others about the bill's proposals for area support teams and agreed that there is a lack of detail about the role of the teams. I hope that the minister will provide additional information to allay those concerns.

Part 4 of the bill relates to safeguarders. Concerns were raised about a lack of clarity regarding the role of safeguarders. The committee believes that there is an argument for establishing a national committee that is responsible for setting national standards and training. We have asked the minister to provide information as to the possible costs of such a committee.

On the provision of legal aid, the committee was keen to ensure that, where possible, the hearings system is not overly legalistic or confrontational. However, we accepted that ECHR considerations require that children and relevant persons be given the opportunity to participate effectively. The committee believes that there is a need to provide effective training to panel chairs and family lawyers on the ethos and aims of the children's hearings system and we ask that measures be put in place to provide such training.

On grounds for referral, Scotland's Commissioner for Children and Young People raised serious concerns that children who committed less serious offences could be left with a criminal record, which could hinder their life chances in adulthood. I hope that the minister will address that matter before stage 2. I recognise his commitment to attempting to address it, but the committee remains concerned that we have not quite got that right yet.

I turn to the pre-hearing panels and the proposal to narrow the definition of "relevant person". The committee heard concerns from the Scottish Human Rights Commission that the proposal as it stands would be a breach of the ECHR. The SCRA also expressed serious concerns about the bill's provision in relation to relevant persons and expressed the view, with which the committee had a great deal of sympathy, that the definition in the Children (Scotland) Act 1995 could be retained with an extension to include unmarried fathers with contact orders. Consequently, the committee has asked the Scottish Government to provide further information on its decision to change the definition.

Finally, the committee understands and has some sympathy with the motivation behind the policy initiative on child confidentiality. However, we also noted the very serious concerns raised by the Scottish Child Law Centre, the SHRC and the SCRA that the provision could be in conflict with articles 6 and 8 of the ECHR. For that reason, the committee has asked the Scottish Government to provide more information on its thinking behind the provision.

I thank all those who were involved in preparing the committee's stage 1 report, particularly the committee clerks and our adviser Professor Kenneth Norrie, who gave us invaluable assistance. I also thank those who provided evidence to the committee, both in person and in writing, and the minister and his officials for their assistance and co-operation during stage 1.

I believe that the bill will help to strengthen the children's hearings system in Scotland, if we get it right. There are still some issues that I hope the minister will address during stage 2, but I am pleased to say that the Education, Lifelong Learning and Culture Committee supports the general principles of the bill.

14:58

Ken Macintosh (Eastwood) (Lab): Many of us, not only in the chamber but in Scotland more generally, are proud of the children's hearings system. The separation of needs from deeds, which lies at the centre of our approach to children and young people, is a principle that has caught the attention of many other countries and jurisdictions.

I am pleased that the bill commits us to maintaining that approach and reinforces our support for the principles that underpin the hearings system. I am pleased, too, that the Scottish Government withdrew the draft bill that was published last year to near universal hostility and came back with a different set of proposals.

My worry is that no matter the undoubted good intentions shown by the minister, which he has shown again this afternoon, or the time taken to get the bill right, there seems to be little confidence about how it will improve children's lives. It will reform and update the system and various processes to ensure that we are ECHR compliant and it will introduce new grounds for referral, but how much difference will any of that make to the tens of thousands of children who appear before children's panels each year?

The limited resources that will be available to implement the bill will be invested not in social services or care and support but in a new national body and a salaried figurehead to supervise a system that is based on voluntary commitment and effort.

The overwhelming feeling that I picked up from witnesses, others who have taken a keen interest in the bill and panel members, who give up their time to make the hearings system work, is not that they are fired up with enthusiasm for the measures but that they are fed up talking about reforming the system and want us finally to put something in place. The bill has been under discussion since 2004, and we need to move on with whatever is agreed rather than have the spectre of legislation hanging over the hearings system.

As for the need for reform, there is no doubt that the cases that children's panels deal with have changed significantly in the past decade and more. I need not repeat the figures that the minister and the Education, Lifelong Learning and Culture Committee's convener, Karen Whitefield, outlined. It is a sad reflection on our society that the numbers have grown substantially and that, of the 47,000 children who are referred to a panel each year, 39,000 are referred because of a lack of parental care or worse.

Nigel Don (North East Scotland) (SNP): I well understand Ken Macintosh's point and I do not particularly disagree, but it is possible that we are becoming better at noticing and referring to the system children who need care. The situation now might be no different other than that we are noticing cases more.

Ken Macintosh: I hope that that is the reason—that would be a good explanation.

I will discuss the system's workings and how little we know about the outcomes for children in the system. It was disturbing to hear from witnesses how little evidence exists about the success of panels' interventions in children's lives. Statistics on the implementation of decisions are available, and I certainly hope that the bill will lead to improvements in them. In some parts of Scotland—most notably in East Renfrewshire, which is my area—panel decisions are almost always fully implemented, and it is clear that a good relationship exists between the panel, reporters, social work services and other public authorities in working to improve young lives, to the extent that one questions the need for reform in those areas. However, the picture is more mixed elsewhere. It is difficult to know precisely why that is the case, but the lack of social workers in some authorities and staffing pressures in others might be at least part of the reason. Many of us remember the serious situation that arose in the east end of Glasgow a few years ago, when cases remained unallocated from one year to the next and supervision orders were ignored.

The move to a national organisation with a national convener might—and I hope will—address concerns about the wide regional variation in implementing panel decisions, but we still will not know which of the various decisions, when implemented, were best for the child.

Adam Ingram: Does Ken Macintosh accept that the introduction of a feedback loop in the bill should give us a level of information that we have never had before about outcomes for children and the quality of decision making in the hearings system? We hope that that will inform us and take us forward.

Ken Macintosh: I agree. The feedback loop is one of the most important developments in the bill, but it can be expanded.

I will give just one example. The committee heard that secure accommodation is used extensively in some local authority areas but not at all in others. Why is that so? Does it work and does it help children? Children's panels are rooted in their communities and it is important that a panel in the Outer Hebrides can decide to intervene and support a child in a different manner from a panel in Dundee, for example. However, the lack of data on which decisions are effective in changing lives—instead, we have data on which

decisions are effectively implemented—is troubling.

The feedback loop is an important development, but it will provide general information to panels rather than information on individual cases. It might help up to a point, but I think, and the committee concluded, that it would be far more effective for panel members to know what is happening locally—how their decisions are being followed up, what resources are available to implement decisions and, most important of all, which interventions have the greatest impact to improve children's lives.

Whether the new national structure and convener will be an improvement remains unclear. A bill is not required to introduce national training standards; I believe that regional training committees already exist. The hearings system rests on voluntary effort. The worry is that that ethos and commitment will be lost under a system of national control and direction. Without sounding too cynical or sceptical a note, there is a suspicion that the reason for abolishing 32 children's panel advisory committees is to meet the Scottish Government's target on abolishing quangos rather than anything else.

Adam Ingram: I hear what Mr Macintosh says, but that is a beneficial impact of the new legislation; it is not the driver for it. The driver is to improve outcomes for children and young people.

On his point about the national convener, I see the feedback loop very much operating at a local level, with the area support team gathering the information from the local authority and distributing it to panel members.

Ken Macintosh: It is reassuring to hear both those comments by the minister.

One issue that has emerged through the committee's consideration of the bill that has yet to be successfully addressed is the potential criminalisation of children and the practices surrounding the retention and disclosure of information. Both Scotland's Commissioner for Children and Young People and Barnardo's Scotland highlighted their concerns about that.

The minister will be well aware of one particular case, which has been brought to his attention and which I believe reveals some of the anomalies in the system. On the one hand, there are some young people who repeatedly reoffend and who cause chaos in the neighbourhoods and communities where they live. There is no point in pretending that if we wipe the slate clean and erase their record at the age of 18, they will suddenly magically turn their lives around. On the other hand, there are some children—perhaps as young as eight—who, because they accepted grounds read out to them at a children's panel at a very young age, carry a criminal record well into adulthood; perhaps to the age of 40. I find it particularly odd that children who have enough sense of shame and of right and wrong to accept their wrongdoing—and who one could argue are therefore the most likely to turn their behaviour around—can be labelled with a criminal record, whereas a child who denies any wrongdoing or any misbehaviour can end up with no information against their name.

I do not pretend that this is a simple matter to get right, but the minister's initial suggestion to encourage reporters to use more minor grounds for referral does not strike me—or, indeed, the committee—as the entire solution. We are currently considering not only the Children's Hearings (Scotland) Bill but the Criminal Justice and Licensing (Scotland) Bill and, of course, multiple pieces of legislation resulting from the Protection of Vulnerable Groups (Scotland) Act 2007 and the disclosure laws. I hope that somewhere between those pieces of legislation we can give proper consideration to how we label or otherwise identify children and young people in the criminal justice system.

Finally, witnesses were anxious to ensure that the children's hearings system does not become overly legalistic and populated by an army of lawyers and other adults rather than simply being focused on hearing the voice of the child. The bill establishes a system in which children's panels will be attended by curators, safeguarders and other legal representatives, who will be appointed by different bodies at different stages in the process and receive different rates of pay for doing slightly different jobs. That does not sound like a recipe for a simple or easy-to-understand system, nor for a child-centred one. The use of the Scottish Legal Aid Board to assess applications for support will introduce another whole layer of complexity.

I appreciate that it is the minister's intention to maintain the principles at the heart of the children's panel system while having regard to ECHR compliance and making other modest reforms. I welcome the minister's willingness to address the committee's concerns. I remain anxious to ensure that we do not, even inadvertently, fundamentally alter the nature of the children's hearings system.

15:08

Elizabeth Smith (Mid Scotland and Fife) (Con): I have absolutely no doubt about the responsibility that we face as parliamentarians as we debate whether to proceed with the bill. It is beyond question that the children's hearings system is an immensely important part of the way that we protect and care for our most vulnerable

children. It is also beyond question that the central principles of the bill should be those that were first set out by Kilbrandon in 1964. Those principles are as relevant today as they were then.

It is absolutely right that we continue to pursue those principles, whose founding ethos is the best interests of the child and the recognition that children and young people who offend and those who require care and protection are usually, but by no means always, equally deserving of being considered as children in need. However, neither do I have any doubt that the current structure needs to be modernised and made more efficient. There are clearly serious issues to do with the current children's hearings system, which need to be addressed. I have been struck by the extent of the different opinions between the different stakeholder groups and, perhaps more strikingly, within the stakeholder groups on exactly what the changes should be, which I believe has made our task as parliamentarians even more complex.

What are the main concerns? A frequent message is that many children and young people do not feel able fully to express their views, nor do they always feel that their views are valued. There are concerns about unclear lines of accountability. Reporters and panel members often say that they need further support. There is wide variation in the volume and quality of in-service training for panel members. Perhaps most worryingly, there is an absence of a level playing field when it comes to the support that is provided across the 32 local authorities.

That said, I openly admit that, at the beginning of the process, and in the aftermath of the Scottish Government's botched attempt at the first draft of the bill, I questioned whether we actually required a legislative process to address the problems that I have just mentioned. I wondered whether we were about to construct a legislative sledgehammer to crack a relatively small administrative nut, thereby threatening some of the best practice in the current system. I have given that a great deal of thought, and I have come to accept that some new legislation is required to ensure that there is better legal representation of children, which, in turn, will ensure greater compatibility with the ECHR and with the Criminal Justice and Licensing (Scotland) Bill.

I am not yet persuaded, however, that the Children's Hearings (Scotland) Bill as it stands is the best possible legislation that will deliver the best possible outcomes for children. Although I share some concerns with the members who have already spoken and with other members of the Education, Lifelong Learning and Culture Committee, let me now outline the Scottish Conservative party's approach to the bill. We fundamentally accept the need for reform. Above all else, we want to deliver the best possible outcomes for the children involved, for their parents and carers, for society in general and for those whose hard work ensures the children's safekeeping. We want a structure that is clear, manageable, fair and acceptable to all parties involved, and that is built on the best practice that is to be found in the local environment with which the child and panel members are most familiar.

In that context, I will cover three important areas of concern and how we propose to address them. First, if there is one aspect of the children's hearings system about which there is relative agreement, it is the success of local delivery. Whatever we do, we must not impair that success and undermine the principle of local accountability. The challenge is how to ensure that that is the case at the same time as providing a national framework of standards that can be applied across all 32 local authorities. We need an appropriate balance, so we worry a little bit about the moves in the bill to reduce some local involvement.

I have no problem with the concept of a national body that can oversee national training and national support, but I do have a problem with legislative changes that might diminish the ability of local authorities or support groups to make decisions that are firmly based on the distinct needs of the child whose immediate environment is their home or residence within that local community. I do not believe that the Scottish Government wants to diminish that ability either, but there is an important matter to be resolved regarding the role of the national convener as it is currently set out in the bill.

The role of the new national convener is unclear. For example, and as the committee convener has already said, I am not convinced that the figurehead role that is envisaged by the Scottish Government is completely compatible with the role of providing direction and leadership in recruitment, selection and so on. The national convener will also have responsibility for delegating functions to area support teams, but there is confusion about how that will impact on the role of local authorities in the children's hearings system.

I flag up those concerns as I firmly believe that much of the rest of the bill is driven by what is expected of the national convener. Our party would like much greater assurance that the post of national convener is a prerequisite for a more efficient children's hearings system—something for which I do not yet believe the Scottish Government has made an entirely convincing case.

Secondly, there is concern that there is a lack of clarity about some key principles. For example,

there is a danger that the phrase "legal advice", which is used extensively in the bill, at times means legal clarification—a subtle difference, I suggest. Notwithstanding my reputation in the Education, Lifelong Learning and Culture Committee with regard to semantic detail, I believe that that is a very important point. There is a difference between what someone can do and what someone ought to do, and we must be careful to ensure that the language in the bill is wholly accurate. If improving the legal representation of children is one of the main arguments for legislation, the legislation must accurately describe the intention.

Likewise, there is an issue about the proposed change to the definition of "relevant person" to be someone who has "significant involvement" with the child, rather than someone who ordinarily has care and control of the child, as is defined in the 1995 act. The Scottish Government's reason for making the change is to try to remove some of the grey areas in relation to responsibility for the child. However, I wonder whether the change will create too many procedural complexities, just as I wonder whether the proposed changes to grounds for referral will make the system more complex than ever.

Thirdly, aspects of the bill will have unintended consequences unless we are very careful. I mentioned our concerns about the role of the national convener and about whether, in the drive for national standards of care, we are in danger of creating a bigger bureaucracy and confusion about how national standards can be delivered locally. I also talked about legal complexities that might arise as a result of a change in the definition of "relevant person".

The extension of the child's right to confidentiality is regarded as essential if our approach is to be fully compatible with the ECHR. Under the current system, confidentiality cannot be offered unless the parents consent, but the bill will change the situation to one in which parents can be denied information about their child and about the reasons for decisions that were taken on the child's behalf. I have no doubt that good intentions are behind the proposal, but the change might lead to breaches of parents' rights under the ECHR. If parents are to continue to have a right of appeal, they must have a right to know the basis of decisions. We must carefully look again at section 171(2)(b)(ii).

I have no doubt that the debate on the bill is extremely important and that the future of many young people will depend on what we decide. The Scottish Conservatives will be constructive in the debate. We support the principles of the bill and we will always be mindful that the best interests of the child are what matters most. To that end, some of the proposals make sense. However, a substantial number of sections need to be amended, and we will use stage 2 to bring forward proposals on how that should be done.

15:16

Margaret Smith (Edinburgh West) (LD): I thank the organisations and individuals who gave evidence to the Education, Lifelong Learning and Culture Committee during our stage 1 deliberations, and not just for their written and oral evidence but for their work as professionals and volunteers in the children's hearings system. I also thank the committee clerks and I thank our adviser, Professor Kenneth Norrie, for his inside knowledge and guidance on a complex bill.

We applaud the children's hearings system that emerged from Kilbrandon, but we are right to strive to improve the system that we have. I do not doubt for a second that the Government had the best intentions when it introduced the bill, just as the previous Administration had when it sought to re-evaluate the system. However, it is fair to say that no one—probably not even the minister—is convinced that the proposals in the bill will deliver all the improvements that we need. The committee expressed a number of concerns, while accepting that the structure can present an opportunity to deliver consistency and national standards. Elizabeth Smith was right to point out the different opinions among stakeholders, which have made our job very difficult.

We should never forget our purpose, which is to make a positive difference in the lives of our most vulnerable children. In 2008-09, some 47,000 children were referred to the children's reporter. Although there has been a welcome drop in the number of referrals, the number of children who require compulsory measures of intervention has risen. We must never forget that although the hearings system deals with children who are referred on offence grounds, the vast majority of children—more than 39,000—are referred for their own care and protection. That is not only a reversal of the original position, but an affront to our national life.

Liberal Democrats have long been champions and supporters of the children's hearings system. We recognise the system's vital importance in protection and support of children and young people, and we want the foundations of the system to be upheld. The system that we have provides a unique and progressive way of helping our youngest citizens, and we should neither forget nor compromise the principles on which it is built. The system assumes that the child who offends is as much in need of protection as the child who has been offended against.

There is wide support for greater consistency in training and recruitment and the proposed changes in structure are intended to address that. In recent years, many issues to do with ECHR compliance have emerged, which also need to be addressed.

We have concerns about some changes that are proposed. The bill is certainly an improvement on the draft bill, which failed to secure the support of volunteers and key partners, so we welcome the fact that the Government went away and tried again. However, the bill remains hugely complex and has the potential to muddy the waters if careful and measured consideration is not given to a number of outstanding issues at stage 2.

I do not have time to cover all the issues, many of which are covered in the committee's report. The committee raised issues to do with the identification of relevant persons, the use of legal aid, the grounds for referral, the provisions on child confidentiality—which have serious ECHR ramifications—and the need for a definition of safeguarder and greater organisation of safeguarders' services.

Crucially, the big questions for us are these: How do we retain the strong local connections between children's hearings panels and the communities that they serve? How, while centralising the responsibility for management of hearings into children's hearings Scotland, can we ensure that panel members throughout Scotland get the support that they need when they may work in very different local circumstances? As the minister said, concerns remain among CPACs especially in relation to that.

The vast majority of children's panel chairs have given their support to the bill in principle at least, but, as with members of the committee, a good number have raised questions or disagreed with aspects of the bill. It is crucial that the Government work with stakeholders and people on the ground to ensure that changes have the backing of the people who will be practically engaged in their delivery, because their experience will ensure that the system post legislation will be an improvement on the one that we have.

One aspect on which anxiety remains is the role of the national convener and how that role will work in practice. There has been some discussion about potential conflicts of interest within the role, such as the fact that, as well as being a figurehead, the convener would set objectives and monitor performance. The committee has raised that point and seeks clarification on it, but there is also a need for practical information about how the convener would go about providing procedural and legal advice to panel members and what that legal advice would cover.

We also seek further information on how the new local area support teams will help to maintain and improve standards throughout Scotland. We accept that the convener will have responsibility for delegating functions to area support teams, but the current lack of clarity means that we cannot be sure how it will work in practice, what involvement local authorities will have and, therefore, what the true costs will be. Shetland children's panel, for example, raises the point that there is no duty on local authorities to do anything in support of the panel. It and others highlight the need for the local organisations to be truly local, and not so large that the community link is lost. I am sure that the minister understands the particular concerns of island communities in that regard.

I hope that the minister will assure us that children's panel members, chairs, local authorities and others will continue to be consulted fully on the bill as it goes on to stage 2. As I said, we recognise the need for improved consistency—particularly in the training and support that are offered to panel members—but it must not come at the expense of strong local connections.

There is also a danger that a move to centralisation would deter local volunteers, who are already overburdened. We must be sensitive to the fact that their workload cannot increase to such a point, and their work cannot change to such a degree, that they no longer wish to be involved. Local authorities are also uneasy about what a move towards centralisation would mean. The committee shares many of their concerns about the need for accountability and about how the national convener will be held accountable.

We also share COSLA's concerns on enforcement orders. We are concerned about the move away from the flexibility of the current arrangements, and that such orders will be exercised against local authorities only if panel decisions are not followed through. That approach does not seem to take on board other Government policies—such as getting it right for every child—that encompass a wide range of services. Those connections should be regarded as strengths in the system.

However, non-compliance with panel decisions must be addressed. The most commonly held concerns across all submissions related to the implementation of hearings' decisions by local authorities and the monitoring of that implementation.

I—and, indeed, the committee—would like greater emphasis on, and a broadening-out of, the proposals on feedback. Although I am pleased at the idea of having a feedback loop, its hierarchical nature—from panels to the national convener—concerns me, and COSLA shares those concerns. The loop may be helpful at strategic level, but I

remain to be convinced that that proposal alone will in any way help to achieve the objective of informing panel members about what happens after compulsory measures are agreed.

Partners on all sides agree about the importance of better communication and feedback. I recently visited a young people's centre in my constituency. The view there was that the needs of young people constantly change and, therefore, the centre's ability to provide suitable care and support fluctuates depending on the specific needs of individuals, as well as on the other individuals that the centre has in its care at any given time. The staff there felt that the feedback loop should be horizontal, which would allow panel members to communicate better with them and others who have to deliver the services. They would then be in a better position to feed in information about what they felt able to deliver at any given time, about the local issues and about the most effective measures that could be taken to help our young people. Better communication on the ground will make a more integrated system that is stronger for all who are involved.

Although we all have known constituents who have been victims of crime that was perpetrated by young people, I retain some concerns about the long-term—often life-long—impact of the use of the offence grounds to refer children. None of us wants to increase the judicial or adversarial nature of the hearings, but we cannot ever forget that hearings are quasi-judicial in nature. They are forums in which young people can be deprived of their liberty and might accept offence grounds that will be on their records from then on; they are not just some sort of informal, cosy chat with kindly members of the lay community.

When a child has committed a serious offence and may offend again and is a risk to others, it is of course necessary that that information be disclosed to the relevant parties, otherwise some children might find themselves in the court system. However, that needs to be balanced with affording those who have committed less serious offences and those who have actually fessed up to what they have done the opportunity to turn their lives around. We need the minister to consider that aspect carefully prior to stage 2.

We will support the bill today, but it is clear that the bill's modernisation proposals command only qualified support at this stage. We are willing to give the Scottish Government the chance to take the bill forward to stage 2. We hope that many of the issues that the committee report has raised will be addressed prior to and during stage 2 so that we can achieve the goal that we all share, which is to improve the children's hearings system solely to improve the welfare and protection that we offer our young people.

The Deputy Presiding Officer (Trish Godman): We now move to the open debate.

15:25

Christina McKelvie (Central Scotland) (SNP): I, too, express my thanks to everyone involved in giving evidence to the committee, to the clerks and to the organisations that gave us extremely helpful briefings. I also express my thanks to Kenneth Norrie, who has been absolutely invaluable to the committee.

The children's hearings system has been an important aspect of the Scottish legal system for nearly 40 years now, and has been examined and copied by other nations. It is a welfare-based system that supports children and families in the most difficult of circumstances. The purpose of the bill is, of course, to enhance and modernise the system rather than to replace it. As the committee report has it:

"The Committee also recognises, however, that the children's hearings system is not perfect. It has to be modernised to ensure that it can provide a consistent service across and respond to the needs of a modern society."

We are preparing the system for the next four decades of use to protect and nurture children and young people, and we are ensuring that the bill meets the twin challenges of updating the system while not compromising any of its key principles.

During evidence taking, it was clear that there is general support and welcome among witnesses for the bill's provisions. As we would expect—and as we heard earlier—concerns and questions were raised about specific details, which the committee will track closely at stage 2. However, the prevailing view can be usefully summarised in the words of Barbara Reid of the University of Glasgow:

"Someone has to take control of the system and ensure that standards are set, maintained and inspected."—[*Official Report, Education, Lifelong Learning and Culture Committee*, 21 April 2010; c 3430.]

In that regard, I was interested to hear from witnesses that not every local authority has a training committee or a way of feeding back on the efficacy of training that it gives to panel members. The bill will address that aspect by providing a framework within which best practice can be discussed, agreed on, disseminated, monitored and enforced.

That focus on the continual maintenance of standards and development of practice should be an integral part of the system. It is one reason why it is so important that the bill includes the power to enforce on local authorities a duty to act on panel recommendations. Children's services are not the responsibility solely of local authorities, of course,

particularly in these days of partnership working and shared services, which is why I have argued for that power and duty to be extended to cover national health service boards. Scotland's Commissioner for Children and Young People made very clear representations on that when he came to the committee. I am pleased that the minister indicated during evidence that he will look at that suggestion with an open mind.

I also ask the minister to consider including forced marriage as a ground for referral when he considers changes at stage 2.

Witnesses were very clear that local authorities had supported the system very well over the years, as I am sure we would expect from every councillor and council officer. I am pleased that the bill will not remove local authority contributions to the panels' work. It is important to maintain that local community link.

Another change that comes in with the bill and for which I congratulate the minister is the extension of legal aid provision. It is an excellent move to allow children and other relevant persons the right to apply for legal aid. Additionally, allowing applicants for legal aid to choose their own lawyer from the Scottish Legal Aid Board's list of lawyers allows choice and continuity of representation as well as addressing issues of access to legal assistance in emergency situations. It offers choice, dignity and support to children and young people who are involved with the panels, and to their parents, carers and other relevant people who are involved. It certainly goes a long way towards addressing our responsibilities on human rights legislation and the embedding of the United Nations Convention on the Rights of the Child, which is a particular interest of mine.

Given that the work of the panel involves repairing the lives of children who have been damaged by circumstances, events or, indeed, by the very people whom they should trust to protect them, offering that dignity and legal support is an important step in the right direction. It sends a message that the state is not about to turn its back on those in need, that the weakest members of our society will be protected as far as possible, and that Scotland sets great store by ensuring that the wheels of justice turn for everyone, even if in some circumstances they turn slowly. Being given that measure of choice and support may be part of the process that helps a young person to begin to rebuild their life.

The bill is not perfect and it needs some work at stage 2 which, I am pleased to note, the minister has already indicated he is prepared to undertake. I look forward to taking part in the relevant committee meetings and ensuring that we get the best possible legislation, and I am sure that all my committee colleagues feel the same way.

The process that has led us this far began quite some time ago with the previous Scottish Administration and its getting it right for every child proposals. It is only right to note the work that previous ministers did, the wide-ranging consultation and discussion that took place, and the hard work of everyone involved to bring the proposed changes to this stage.

That continuing spirit of co-operation and good will will allow the current minister to work with committee members to ensure not only that the hearings system can continue to provide the excellent and improving service that we are used to, but that it can do so within a framework that guarantees the application of consistently high standards of practice and an enhanced level of dignity and choice for all those who come into contact with the panel.

As I said, for me, the fact that the children's hearings system is a welfare-based system that puts the child at the heart of the process is vital. I am pleased to have been able to support the bill through stage 1, and I look forward to working constructively on it with all the relevant organisations and groups, my committee colleagues and any other interested parties during stage 2. I support the bill's general principles.

15:31

Claire Baker (Mid Scotland and Fife) (Lab): I am pleased to take part in the stage 1 debate on the Children's Hearings (Scotland) Bill. The committee is grateful for the engagement of all stakeholders in the consideration process, and I extend my thanks to Professor Kenneth Norrie for his advice and support on the bill.

Along with the changes that it seeks to introduce, the bill has given the committee and the Parliament an opportunity to reaffirm our commitment to the principles on which the children's hearings system is founded; namely, that it is rooted in the welfare principle and the consideration of needs alongside deeds, and that it is firmly fixed in its local community, with volunteers and the work that they do being at the heart of its success.

However, we have perhaps not had the opportunity to reflect on the effectiveness of the children's hearings system. Everyone supports it, but the bill could have given us a greater opportunity to better understand what makes decisions successful. The bill is more about how decisions are made than it is about why they are made.

It is sobering to note the changes that have been made over the lifetime of the system. As others have outlined, there has been a significant shift towards the vast majority of referrals being

made on non-offence grounds. In 1972, just over 3,000 cases were referred on non-offence grounds, but by 2009 that number had risen to just over 39,000. We live in very different times. There is no doubt that too many children and their families now face drug and alcohol dependency problems but, as Nigel Don argued, that might indicate that the system is working and that we are more alert to the needs of children and young people.

Our understanding that it is the responsibility of us all to care for children and young people and our understanding of their place in families have certainly changed over the past 40 years. That might be too positive a reading of the figures, but it is difficult to tell whether the actions of children and young people have changed or whether it is our understanding of their actions that has changed. If it is our understanding that has changed, the children's hearings system has had a valuable role to play in that.

Our convener provided a good overview of the issues of which the committee believes that further consideration by the Government is needed, and I look forward to a productive—if lengthy—stage 2. There are a number of issues that I would like to focus on; I acknowledge that they have been raised by other members, but I think that that shows that committee members have common concerns.

The committee discussed the mechanism of a feedback loop and how it will operate. It is clear that panel members can sometimes become frustrated by the way in which decisions are implemented, or by the fact that, frankly, they are not implemented. The Government intends that the feedback loop will broaden and deepen panel members' knowledge and understanding of the implications of how hearing decisions are implemented, but it will focus on general rather than specific information on the implementation of compulsory supervision orders, which will be requested from local authorities by the national convener.

Although such data collection is important, and we appreciate that it is intended to provide a better understanding of how effectively decisions are implemented, it will provide a snapshot of decisions at national level that might have limited relevance to local panels. Ken Macintosh's analysis of that was a helpful contribution to the debate. Panel members want to be better informed about the outcomes of their decisions and the impact that they have had on the child or young person. In light of that, the committee feels that an opportunity might have been missed and that, as the convener outlined, more could be gained from a feedback loop if the information were to be collated and circulated at local level. We would welcome the minister's consideration of a localised feedback loop.

There was also a wide-ranging discussion about the enforcement process against the local authority. The current enforcement process is rarely used to its full extent and the system relies more on effective communication and engagement of all partners when it is trying to resolve non-implementation issues. The enforcement process requires a delicate balance, but it is important to retain the lever of application to the sheriff court, although it is very rarely, if ever, used. We recognise that the implementation of hearing decisions does not just reside with the local authority but includes a number of different agencies including health boards, as Christina McKelvie highlighted. Any move towards extending the enforcement process must be treated with caution, and it must be clear who is ultimately responsible for the child or young person. The committee welcomes the minister's openness to amendments that would encourage multi-agency working and recognise the role of other agencies in delivering decisions.

Finally, significant concerns were raised that the proposal to narrow the definition of "relevant person" could result in the exclusion of a person who is important to a child's life who falls within the current definition. That could include guardians, adoptive parents, foster parents, grandparents who look after children, and some parents, mainly unmarried fathers, whose only responsibility and right is that of contact. Although the bill includes a mechanism for such a person to be recognised as a relevant person, the process is cumbersome, potentially lengthy and might lack consistency in its application. An argument was also made for a mechanism to allow for review of relevant person status in recognition of how a child's life and the significant people in it can change, and of the fact that those who are involved in making decisions about that life should be able to reflect on that.

The evidence suggests that there is support for the retention and some updating of the current definition of a relevant person. Although it was accepted that the minister made proposals to address the grey areas in the definition, there was sufficient concern about the proposals to convince the committee that this attempt to achieve clarity might make a complex matter even more complex. The stage 1 report explores that in some detail, and I look forward to hearing the minister's reflections during stage 2.

The bill is complex, but that reflects a complex system that has many parts that must work in harmony so that it does not seem to be overly complicated and impenetrable to children, young people and their families and carers. We all want

to ensure that the bill goes some way towards future-proofing the children's hearings system so that that unique system can continue to serve Scotland's children, young people and communities.

15:38

Alasdair Allan (Western Isles) (SNP): As other members have rightly observed, Scotland is justly proud of its children's hearings system, which was founded in the belief that the primary purpose of the law as it relates to children is to ensure that they are protected and given a fair start in life.

One of the experiences that has taught me something as an MSP was the opportunity to sit in on and observe a children's panel hear a case. I could not fail to be impressed by the time that the panel gave to ensuring that the needs of the young person were listened to, understood and acted on. It makes me wonder with a sense of dread what we did before we had children's panels.

I do not think that any of us in the chamber, least of all those of us who are on the Education, Lifelong Learning and Culture Committee, take lightly the task of legislating anew in such a sensitive area of Scots law. However, the Children's Hearings (Scotland) Bill has the significant purpose of strengthening and modernising that unique system to ensure that the needs of children remain central.

It is important to remember who the bill will affect: it will improve the level of support to our most vulnerable children, of whom 47,000 were referred to the children's reporter in 2008-09.

The bill aims to strengthen the children's hearings system by providing improved support for professionals and panel members and by introducing national standards. Combined with the quality assurance and the accountability that the bill creates, that approach will ensure that the system can deliver national consistency in approach and practice.

The Education, Lifelong Learning and Culture Committee took evidence on the central aims of the bill and, although it made recommendations on a number of detailed areas of the proposed legislation, it supports the bill's principles.

Through the creation of the new national organisation, children's hearings Scotland, and its post of national convener, the bill will create new national standards for the statutory work of the children's hearings system. It is appropriate that the new organisation, which is designed to support the work of local children's panels, should be created when we consider that the children's hearings system is the biggest tribunal in Scotland, but is the only one without a national body to support its work. Given that the system is largely delivered by volunteers, it becomes apparent why a body such as children's hearings Scotland is necessary. The committee has made clear its view that further discussion is needed of the exact role of the national convener, and the Government has clearly indicated its willingness to engage on that question.

The bill also seeks to streamline processes and procedures in order to improve understanding and use of the system throughout Scotland under the oversight of children's hearings Scotland. That includes aspects such as the recruitment, selection, training and continuing support of panel members using nationally agreed standards. The establishment of children's hearings Scotland will help to deliver the change that is needed to create the standardised approaches. I am pleased that the submission to the committee from the children's panel chairs group during the committee's consideration of the bill said convincingly that 86 per cent of panel chairs support the new body's establishment.

I note that the bill provides for the establishment of area support teams by the national convener of children's hearings Scotland in consultation with local authorities, which will ensure that local government is wholly involved in the delivery of the system.

The bill also introduces a permanent legal representation scheme that will enable legal representation to be made available to children through the normal legal aid system. That scheme will ensure that children have access to supportive state-funded legal representation. There was discussion in committee and outside about the need to avoid undue intrusion of the adversarial side of the legal system into hearings, but the committee agreed that sufficient safeguards are in place and that the times when legal advice is sought will be relatively rare, notwithstanding the important distinction that Elizabeth Smith makes between legal advice and legal representation.

The fact is that some attention to the current legislation is needed to avoid issues arising from the European convention on human rights. Our system in Scotland has to stand up to the various tests that the ECHR applies to such questions as conflicts of interest and the separation of roles.

Finally, the bill will, I hope, improve the flow of information. There has been some discussion about that point this afternoon, but it is important that the bill improve the flow of information not only to children but back to panels. The so-called feedback loop that is proposed will, I hope, address the complaint that I have heard from many panel members that, at present, they often do not get to know in detail whether their findings

have been implemented in full and whether the interventions that have been made have actually helped the child.

The bill has been the subject of significant consultation. As others have observed, what it proposes is certainly not the same as what was proposed in the draft bill in June last year. Indeed, discussions at Scottish Executive level about reform go back to at least 2003, and the process of parliamentary scrutiny is not over. I believe that, if we are to support children's panels more fully in their work of ensuring a better chance in life for Scotland's children, the bill deserves our support.

15:43

David Whitton (Strathkelvin and Bearsden) (Lab): I am pleased to take part in today's debate.

As we have already heard, the children's panel plays a vital role in supporting vulnerable children in our communities. Like other members, I accept that the plans to overhaul the children's hearings system have been supported by MSPs, but there are concerns that have not yet been addressed about how the reforms will work.

It is important that as adults we remember how difficult growing up can be—and the uncertainty that there is in trying to find our place in the world. That is precisely why children's panels, made up of local people taking decisions to help local youngsters, are so important.

For more than 40 years, the volunteer-led system operated to serve local areas, so when reforms were first mooted, we heard many dire warnings that hundreds of children's panel members in Scotland were threatening to quit. If I remember correctly, the children's panel chairs group advised that a quarter of its members supported the bill, a third supported it subject to amendment and 10 per cent did not support it at all. Those people are volunteers and Scotland cannot afford to lose one, let alone 100. Creating a national body to oversee the training and consistency of a 40-year-old system that is presently run by councils seems sensible, but it must be done in conjunction with those local people. Let us not forget that the reason why the hearings system came to be viewed as one of Scotland's legal jewels was the value that comes directly from having local members who want to work with those from their own communities, not be told that they can be put somewhere else.

Initially, a number of panel chairs wrote to Mr Ingram with their concerns about the provisions in the bill. Phillip White, the chairman of the Argyll and Bute panel, was among them. He said:

"The Scottish Government has totally misjudged the strength of feeling on this. Members are furious and some have already resigned. I would anticipate that at least 40 per cent will resign over these changes as they did not join up in order to lose sight of the protection of children."

He went on to say:

"The changes are unwelcome, unwanted and unnecessary. Panel members throughout Scotland have voiced their concerns but the government appear hell bent on rushing through these changes. It beggars belief as to why this has to be done—and in such a hurry."

To be fair, Mr Ingram has done well to listen to that stinging criticism and has, indeed, made changes. We all accept that the changes were aimed at driving up standards throughout Scotland, as other members have mentioned, and ensuring that panel decisions cannot be challenged under the European convention on human rights. We accept that that change is needed. However, I do not think that I was alone in thinking that some of the reasoning behind the bill was a bit ill considered and that the bill had the potential to achieve nothing more than a costly overhaul, leaving a system in which hearings resembled court cases and would not be child friendly. Again, to be fair, I do not think that that is what Mr Ingram is trying to achieve.

Labour members raised genuine concerns at the Education, Lifelong Learning and Culture Committee. I am sure that, being the kind of man that he is, the minister will address those concerns at stage 2. As has been said, we are not entirely convinced that the figurehead role for the national convener is compatible with the role of providing consistent direction and leadership in the recruitment, selection, training and provision of support to panel members. There is also an argument for establishing a national committee that would be responsible for setting national standards and providing training. However, we must ensure that the hearings system itself is not overly legalistic or confrontational.

Meanwhile, to many, the role of local authorities is now a bit confused. Essentially, it appears that, while losing any substantive role in supporting the hearings system, local authorities will still be expected to provide clerical staff, office space and other such support. It cannot be assumed that they will accept that position—I think that COSLA has already indicated that in its opposition to the bill. There seems to be a huge lack of detail on many aspects of the bill. No one disagrees that improving standards, creating more consistency and providing better support for vulnerable young people are behind the need for change; however, sometimes, change for change's sake is not the answer.

As I am a member of the Finance Committee, it would be remiss of me not to mention the issue of money. The financial memorandum estimates the cost of the system at around £32 million and estimates that the bill will add £2.5 million to that.

What is interesting is the understanding that local authorities will continue to provide local support to the hearings system; therefore, they will retain the £3 million that they currently spend on matters such as CPACs, expenses and local training. However, the financial memorandum notes that if they do not continue to support the hearings system, the cost will need to be met by the Scottish Government. I also note that the budget for legal representation, which was mentioned by Christina McKelvie, is to be increased from £300,000 to £441,000.

It is worth quoting from the briefing note on the bill's financial provisions that COSLA sent to MSPs. It states:

"The opacity and inconsistency in the way the Financial Memorandum has been developed and presented makes it very difficult for stakeholders, including COSLA, to assess the validity of the document."

Adam Ingram: David Whitton will be aware that we gathered the information that we used in the financial memorandum from our survey of all local authorities. As we are not adding to the system's functionality, it is reasonable to estimate costs on the basis of current costs in the system. Therefore, we very much take issue with COSLA's criticisms.

David Whitton: That is an interesting statement from the minister—he must be one of the few Scottish National Party ministers who have managed to fall out with COSLA.

I will finish quoting from COSLA's briefing note. It states:

"In general COSLA are concerned that the costs are generally understated and the benefits generally overstated and/or assumed rather than evidenced. This includes a failure to account for inflation over a period of 7 years—in effect a projected 14% cut in real terms, to a failure to have costed the new duty being placed on local authorities to share information, and an inevitable increase in expenditure on safeguarders."

I am not saying that; it is COSLA's view.

Hugh McNaughtan, the deputy chair of the children's panel chairs group, said that there were genuine concerns about the bill. He said:

"We are concerned about elements we expected to be included in the bill which are not, one of which would be to do with greater local authority accountability. Panel members are focused on the welfare of the child; we are not legal experts and would not want to see an adversarial system."

In preparing for today's speech—much like Alasdair Allan—I spoke to one of my constituents who has been a children's panel member for many years. He said that we cannot afford to lose the local ethos that is the basis of the system. He said to me:

"The proof of the pudding will be how many people resign when the new system comes into place. If we are not doing it for local kids, then why bother."

I hope that the minister will make changes to the bill so that people will not be inclined to resign. Those who give of their time to serve on children's panels do a fantastic public service and should be thanked for their unstinting efforts. We should not forget that they put themselves forward for the best of reasons, and every day they have to make difficult decisions that can have major implications for a child's future.

If the minister and the SNP Government are willing to listen and make changes to the bill at stage 2—as the minister has indicated he is—they will be helping those people and giving a bit of a shine to that jewel in our legal crown.

15:52

Angela Constance (Livingston) (SNP): I start by declaring an interest. As a former local government councillor, I was a member of the West Lothian children's panel advisory committee for a number of years.

The West Lothian CPAC was, in my view, an exemplar in the recruitment and training of panel members. The local recruitment campaign bore far more fruit than the annual national campaign, and great efforts were made—with great success—to recruit men and people with real-life experience. West Lothian panel members represent all aspects of community life, and there is a good spread and variety of professions, backgrounds and ages.

The selection process was extensive, and successful panel members have for a number of years now had to evidence their on-going training and development. That was done in recognition of the professional job that we ask volunteers to do. I can say with confidence that the quality of panel members in West Lothian is outstanding.

Of course, what exists in West Lothian will not be unique; there will be other areas of excellence. However, I cannot say with confidence that the West Lothian experience is the national experience the length and breadth of Scotland. All change is difficult and, having reflected on my discussions with Senga Kemp, the chair of the children's panel, and Bill MacDonald, the chair of the CPAC, both in West Lothian, I say to the minister that we must ensure that we take the good folk with us. I understand the benefits of moving towards a national supporting body and national standards, but as members on all sides of the debate have emphasised today, we must not lose the benefits of local activity and knowledge.

This morning, I spent a considerable time with a mother in my constituency who feels totally let down and abandoned by the system. Her child was the victim of an incident involving other children. She did not want vengeance or

retribution, tempting though that was and is. What she wanted was twofold. At the time, she needed information and support, but they were not forthcoming, so she had to pursue them at a time of great trauma for her daughter and her family. Services were most certainly not seamless and vital information was not shared.

Crucially, however, what she wanted to know above all else was that the children who had committed the act against her daughter would not be lost in the system. She wanted to be reassured that everything would be done to turn those children's lives around. She wanted to know that we—the state—would ensure that what happened to her child would not happen to another. Of course, I cannot put my hand on my heart and reassure her that that will indeed be the case. We cannot always prevent bad things from happening to children. However, we need to have a children's hearings system in which we have absolute confidence.

Although confidentiality of individuals and families cannot and must not be breached, we need to find ways in which to communicate far more effectively what actually happens in hearings and the range of options that are available. That is certainly reflected in the briefings from Barnardo's and others. It is not just politicians who need to have confidence in the children's hearings system. We need to go out there and convince members of the public that it is not the soft option in addressing the needs of children who are in trouble. Professionals and politicians need to think carefully about the language that we use. We all spend much time talking about outcomes for children when, ultimately, what we are talking about is changing children's lives and giving them the best possible start in life.

I am not a member of the Education, Lifelong Learning and Culture Committee—that is not a pleasure that I have—so I have not sat through all the evidence from all the stakeholders, which is another word that I hate. However, two things leaped out at me. The first is that it is important to increase powers to address the non-implementation of decisions that are made by the children's panels. As a former social worker, I carry the professional scars of old battles—mainly with health, I have to say—so I read with interest the briefing from the Association of Directors of Social Work, which states that the bill could provide an opportunity to make more tangible the language of shared responsibility. I suppose that the bottom line is always about improving children's lives. There is an old saying: "You're only young once."

Some other interesting briefings were provided by the voluntary sector. I note that, when it comes to decision making and enforcement powers, people want panels to take account of the remits of other agencies. Although I do not disagree with that—it is stating the obvious—neither do I want children's panels to let agencies off the hook. To get the best deal for children, professionals and agencies sometimes have to think and act outwith the box, laying to one side the tick-box criteria and exercising professional autonomy. I hope that the bill will encapsulate that spirit of multi-agency working.

Secondly, I was impressed by the introduction of interim compulsory supervision orders, which are far more meaningful and pragmatic than the minimalist place-of-safety warrants. When we need to act, we need to do so quickly and comprehensively.

I believe that now is the time to reform Scotland's children's hearings system. The bill gives us the opportunity to hold dear the Kilbrandon principles and move forward to ensure that all children in need have every opportunity to succeed in life. Scotland's children's hearings system has been admired around the world, but time stands still for no one and we should aspire to be world leaders. That will be no mean feat given the financially chastened times in which we now exist, but when cash is tight, it is all important to focus on the very things that matter to us the most.

15:59

Nigel Don (North East Scotland) (SNP): I, too, am not a member of the Education, Lifelong Learning and Culture Committee. Therefore, I come to the matter late and, I suspect, see it from a slightly different angle, which I hope will help the Parliament.

I start with an issue that was picked up by several respondents to the committee, which is the issue of safeguarders. If training and consistency of standards matter for panel members, the obvious question is why they would not matter for safeguarders. As I read it, the only possible way of dealing with the issue is to have a quango that looks after safeguarders, which is not possible in the real world. I have read that there are fewer than 200 safeguarders. I remember trying to deal with a group of a few hundred folk across the country. We organised ourselves by electing a president, a vice-president and a treasurer. All training could have been provided by one salaried administrator, which is proportionate. I do not see why that is impossible in this case. I suggest that it may be the kind of answer that everyone seeks; and it would surely be a great deal cheaper and easier to implement than another quango.

Wearing my Justice Committee hat, I turn to the issue of discretion and where it is exercised. Discretion should always be in the right place, but

it is suggested that, in a couple of circumstances, it is not. I refer members to paragraph 120 of the stage 1 report, which relates to sections 58 and 59 and states:

"These sections set out the obligations of local authorities and the police to provide information to the principal reporter when a child is in need of protection, guidance, treatment or control and when the local authority or police consider that a compulsory supervision order *should* be made. This provision is in contrast with the current requirement that local authorities and the police should refer a case when they consider that a compulsory supervision order *may be necessary*. This change seems to move the key decision making power from reporters, traditionally the gatekeepers to the children's hearings system, to local authorities and the police."

If I saw evidence that that was a researched policy change, on which evidence had been taken, we might be able to discuss it, but I see no such evidence. If the committee has not taken evidence on the change, is it an intended part of the policy? I leave it to the minister to reflect on the matter. There seems to be a change—was it intended?

Adam Ingram: There is a change, which is meant to bring the GIRFEC principles to bear in the bill. One of those principles is that we do not wait for crises to happen before intervening—early intervention is what we are all about. I know that the committee had some concern about the issue and I am happy to discuss it at stage 2. Essentially, we do not want a blanket approach to be taken, as has happened in the past. For example, if all domestic abuse cases are referred to the reporter, the system becomes snowed under. That is why we have changed the language.

Nigel Don: I am grateful to the minister for his explanation. I am sure that the Education, Lifelong Learning and Culture Committee will pursue the issue at stage 2.

The Association of Directors of Social Work has raised with us the issue of the discretion that was previously exercised by the principal reporter. It points out:

"The Antisocial Behaviour (Scotland) Act 2004 introduced a power to the Principal Reporter, on instruction from a hearing, to seek enforcement through the courts of the implementation by the local authority of a children's hearing's decision. An important element of this was the discretion of the Principal Reporter. The Children's Hearings Bill, as currently drafted, reaffirms the power, transfers it to the National Convener, but removes the discretion. This means that if a children's hearing so requests, the National Convener must take the local authority to court to seek enforcement of the hearing's decision."

There may be time for the minister to address that issue, although I must make one further point.

Adam Ingram: We are transferring the discretion not from the principal reporter to the national convener but to where it belongs—the tribunal. The national convener will be merely an agent of the children's hearing and will be required to apply to the sheriff. We do not anticipate that the number of cases that will be taken to court to seek enforcement will be much greater than it is now, but it is important that the power is available.

Nigel Don: Again, I thank the minister for his response. This is what parliamentary debates should be like. I am glad that we occasionally have time for such debates.

If I may be indulged, I want to make a third point, which others have previously made. The Justice Committee has been dealing with the Criminal Justice and Licensing (Scotland) Bill. Section 38 of that bill, as amended at stage 2, states:

"A child under the age of 12 years may not be prosecuted for an offence."

I wonder whether inviting a child to plead guilty or to accept guilt for an offence for which they cannot be prosecuted is an infringement of some part of their human rights. Surely if, under the law of the land, that child is not capable of being put in front of a court and prosecuted for an offence, it cannot possibly be right that they can find themselves in front of some other tribunal, having, in effect, been charged with that offence and pled guilty to it. That is not necessarily the minister's problem—perhaps the Cabinet Secretary for Justice needs to address it—but I think that there is an inconsistency and that the Government needs to grasp the nettle. When we discussed the Criminal Justice and Licensing (Scotland) Bill at stage 2, we discussed the introduction of the Children's Hearings (Scotland) Bill and that matter being dealt with in it, but it seems to be being dealt with in neither bill. It seems to me that there is a lacuna that we should address.

The Deputy Presiding Officer: We now move to the winding-up speeches. I call Hugh O'Donnell.

16:06

Hugh O'Donnell (Central Scotland) (LD): I think that you have caught one or two of us unawares, Presiding Officer.

By and large, the debate has been positive. It is generally accepted across the chamber that the bill deserves to be supported at stage 1.

Several members have spoken relevantly about the history of the current system. I think that David Whitton commended it as one of the jewels of the Scottish legal framework. Mr Whitton stunned me by being fair to the minister twice in one speech, which was something of a novelty.

Several members have referred to their concerns. The members who have spoken have mainly been members of the lead committee and

so are much more knowledgeable about the bill than members such as myself and others who have spoken. I have listened to what members have said and think that there is still a lot to be resolved. Admittedly, the bill is still at stage 1, but it is clear that there are problems. The committee convener and other members referred to the role of the national convener, the powers that are involved, and the seemingly difficult balance between centralisation and localisation, which, after all, is at the root of how the hearings system works.

Members across the chamber have referred to legal advice, but I do not remember any member mentioning advocacy or access to it, which was mentioned in a submission. For various reasons, there seem to be shortages where people have a right to advocacy in any of the processes that run our bureaucracy. I have taken evidence in the Equal Opportunities Committee from people who provide advocacy, and they have said that their workloads are overburdening. There are financial, fairness and justice implications that I hope the minister will consider.

The prospect of minor offences being carried forward in people's lives and therefore damaging them has been referred to. I think that the submission from Scotland's Commissioner for Children and Young People referred to that. A bell rang in my head when that was referred to. Some states in the United States provide a system of sealed records that allows a juvenile hearing offence to be sealed and not carried forward, depending on the circumstances and the nature of the case. It might be worth the minister looking at how that system works in the states in which it applies, as it could overcome some of the concerns that various members expressed about young people carrying offences into adulthood.

Nigel Don made an interesting observation about the apparent contradiction between what is in the Children's Hearings (Scotland) Bill and what is in the Criminal Justice and Licensing (Scotland) Bill and I am sure that numerous people will be scratching their heads about that.

Liz Smith and others rightly pointed out that the whole system must be child centred. It deals with some of the most vulnerable young people, and that is reflected in the balance between the numbers who are referred on offence grounds and for reasons of care and protection over the years. We need to ensure that their voices are heard. My purely personal opinion on the confidentiality to which a child is entitled is that there might be circumstances in which a child wants to or has to say something in the earliest stages of the process that the parent does not need to know about—in fact, it could be to the child's disadvantage if the parent knew. There is a difficult balance to strike on the extent of the confidentiality required. Liz Smith also pointed out issues to do with the language used in drafting the bill. To hark back to my previous comments, we need also to consider any unintended ECHR consequences in respect of the confidentiality issue. There is a lot of work to do.

Margaret Smith emphasised again the need to retain the local focus of the panels and to consider how they bed into the community and the national convener's role in relation to them. It needs to be made clearer that we will not encounter a situation in which the feedback loop turns into an upwards spiral with everything gravitating to the top. The minister has given some assurances in that regard.

Angela Constance made a particularly telling point about the wider public's perception of the children's hearings system. The perception, at least anecdotally, is that the system is a soft option and some communities seem to favour transportation or some other method of dealing with their problems. Politicians and everyone involved need to say to folk, "Have a look at this system; it is not a soft option. It does look after the children and it provides an opportunity for them to turn their lives around."

16:13

Margaret Mitchell (Central Scotland) (Con): This has been an important and thoughtful debate. The children's hearings system was established as a result of the 1964 Kilbrandon report and much has changed since that time. It should come as no surprise that, 40 years on, there is a need for reform and modernisation, about which there has been total consensus in the chamber today.

It is important to stress at the outset the vital role that children's panel members have played and continue to play in the system. Those men and women are all volunteers who have given willingly of their time in an effort to provide support, assistance and guidance to the children from their local communities who have been referred to the panel hearings. They deserve recognition and our gratitude for the work that they have undertaken. There is a danger that, as we debate the general principles and the detail of the bill to reform the system, it will appear to the casual observer that panel members bear the brunt of the criticism that has emerged over the years about the system's failings and shortcomings.

The bill creates a new non-departmental public body called children's hearings Scotland, which will replace the 32 local authority panels and will be headed by a national convener. One major concern is that although, at present, all panel

members are required to be from the relevant local authority area, the bill introduces flexibility into that by requiring only that a children's hearing

"so far as practicable, consists only of members of the Children's Panel who live or work in the area".

In an effort to address one of the flaws identified in the system by requiring uniformity in the support and training of panel members, localism is replaced by centralisation and, in the process, the vital connection to the community that was stressed as so important in the Kilbrandon report is lost. That point was well illustrated by both Margaret Smith and David Whitton.

As Barnardo's Scotland and other contributors to the debate have highlighted, there is a lack of detail in the bill about how the new unitary body and its convener will liaise, co-operate and work with voluntary organisations, other agencies and, crucially, local authorities and their social work departments.

Although the focus of the debate is the proposed legislation to improve the system, a vital issue that needs to be addressed is the strain and pressure under which criminal justice social workers currently operate, due to their vast and increasing workloads. When I visited a panel hearing, I saw for myself that, perhaps because they are covering for a colleague or perhaps because of their volume of work, social workers often arrive at hearings having only just had the opportunity to take a cursory look at the child's case notes for the first time. That is a problem that legislation will not solve but which directly affects the way in which the system operates and results in a situation that is totally unsatisfactory for all concerned but primarily for the child whose case is being discussed. I would very much welcome the minister's comments on that point.

As my colleague Liz Smith pointed out, there is a lack of detail and clarity about key provisions in the bill. She made that point effectively with reference to some of the terminology and the role of the national convener.

In addition, the Law Society of Scotland's family law sub-group has recommended that the role of safeguarders be clarified in order to provide details about training, standards and complaints. It is simply unacceptable to leave such crucial detail to secondary legislation.

Under the current system, concerns have been expressed about inconsistencies in implementing national guidelines to assess the risk factor. I raised that issue in a debate on children's hearings back in 2004, when I said that the risk assessment was a

"postcode lottery, due to a failure to adopt a standardised approach".—[*Official Report*, 18 May 2004; c 8324.]

For example, in one local authority area, a relatively minor incident could result in a child being removed from a family while, in another, a much more severe incident could result in a child remaining in a family. It is therefore something of a disappointment and a concern that, instead of focusing on that type of issue, the bill has tended to concentrate on measures to avoid a potential challenge under the ECHR, as Ken Macintosh highlighted.

Adam Ingram: As far as risk assessment is concerned, Margaret Mitchell will be aware that we have produced a draft for consultation of the new national child protection guidance, in which we focus very much on risk identification and assessment. That has been identified as one of the areas of weakness across the country on which we have to focus and improve. I hope that she will be reassured by that initiative.

Margaret Mitchell: That is certainly a very welcome initiative, but the crux of the matter is how the guidelines are implemented in practice. I am not sure whether it can be clearly demonstrated that the bill will make things better. It will make things neater and more ECHR compliant, perhaps, and it will assemble rights in a way that makes sense against some abstract criteria that are imposed by a legal standard, but the question that we should be asking is whether the bill will address the needs of the child.

Children of 14, 15 or 16 now are different from and much more mature than such children 40 years ago. For persistent offenders of such ages who are currently referred to children's panels, the option should therefore be available to make referrals to youth courts, where appropriate. Youth courts have operated well in parts of Scotland, including my Central Scotland constituency.

I firmly believe that the disposals that are available to panels should be reviewed, so that the most effective options are available to them to protect vulnerable children and to instigate early interventions to deter a trend of delinquent behaviour.

Robin Harper (Lothians) (Green): Does Margaret Mitchell agree that many 16 to 18-year-olds—particularly those who have just left care—benefit from the help of the children's hearings system? It would help if we took the attitude that most of those young people up to the age of 18 who fall foul of the law for one reason or another would benefit considerably from an extension of the children's hearings system to cover them entirely.

Margaret Mitchell: If Robin Harper listened to what I said, he will know that I made a particular point of talking about referral to youth courts "where appropriate". The children's panel system

must be flexible and must consider a child's needs. The disposals that are available and the option of sending children to youth courts where appropriate should be considered.

I welcome the bill's general principles, but I have severe reservations about the provisions, which will require long hard deliberation at stage 2 if we are to enshrine the principles that are in the Kilbrandon report by maintaining a child-centred approach locally and ensuring that that continues to be central to proceedings.

16:22

Des McNulty (Clydebank and Milngavie) (Lab): Like other members, I praise the commitment of children's panel members. In recent months, I have met panel members from my area and from throughout Scotland. Without exception, they do a valuable job in supporting young people and fill a necessary role in our social work and criminal justice system.

In making the point that we have a good system, we need to be careful to note that the system depends on the people who serve it. Ultimately, a panel is only as good as the people who are attracted to be its members. If we cannot bring good people into the children's panel system, the structure—whatever it is—will not work as effectively as it does at present.

I am not a member of the Education, Lifelong Learning and Culture Committee but, having listened to the debate, I am struck that, although speeches from members across the chamber have been well informed, support for the bill has been lukewarm. The committee agreed to support the bill's principles not with enthusiasm but with a set of reservations. We need to explore systematically the reasons for that, but I do not propose to read out the committee's summary of conclusions and recommendations, although the time is available so to do.

I will take a different tack. Legislation that proposes a change should be measured against four tests. The first is whether the rationale for the change is clear. The second is whether the bill will improve the situation. The third is whether the proposed structures are clear and systematic. The fourth is whether the proposals contain obvious anomalies. The bill does not necessarily match those criteria as well as it needs to.

For example, according to the section in the Scottish Parliament information centre briefing that is headed "The Need for Change", the argument is that the proposed changes in structure are primarily intended to improve consistency in decision making and to deal with matters such as anomalies in the quality of training across Scotland. There are relatively minor issues such as the "'unacceptable variety of practice'" in paying expenses and there is an issue with poor support for panel members, who are frustrated that their decisions are not always acted on. Finally, there is the issue of compliance with the ECHR.

Adam Ingram: The key driver is to improve outcomes for children and young people, which we do by establishing very high national standards. We do not currently have the mechanism to achieve those consistently across the country, which is why we are introducing children's hearings Scotland and the national convener, who can monitor performance against those high standards. That is the simple essence of what we are trying to do.

Des McNulty: That is a useful clarification of the minister's purpose, but the high-level purpose of improving outcomes has been drowned out by the technicalities that the bill appears to be geared towards addressing. That is an issue that we need to focus attention on.

There is also an inconsistency between, on the one hand, what Ken Macintosh said about the quality of children's panels in his area, what Angela Constance said about panels in West Lothian, and what I have heard from East and West Dunbartonshire—everyone says that the children's panel system is working well—and, on the other, the evidence to which the SPICe briefing refers suggesting that panel members feel that they are "poorly supported" and that their decisions are not properly taken account of. If everyone is saying that things are fine, but the evidence suggests that they are not, what is the reason for that discrepancy? We need greater clarity than we have had about the evidence base and the rationale for change. I know that it is relatively late in the day, because this is the second time round with the bill, but I would have hoped that these matters would have been resolved to a greater extent than they have been.

Although I am not a member of the Education, Lifelong Learning and Culture Committee, I have a prior link with the children's panel system, because I was involved at the time of local government reorganisation in Strathclyde, when the current administrative arrangements came in as a result of the Local Government etc (Scotland) Act 1994. Before 1996, the children's reporter system was housed within local government and was a local government service, which meant that the social work function and the children's reporter function were housed in one organisation, were closely interrelated and were linked in with the community organisations of the local authority.

It was local government reorganisation that led to a separating out of the reporter function. In my view, one of the predictable downsides of that was that reporters increasingly saw themselves as

working within the legal framework rather than within the local government framework. The panels became more legalistic as a result of that process. One of the tensions that have been there ever since is how to resolve the legalistic structure of the children's panels with the representative accountability of local authorities.

What worries me about the proposals in the bill is that they seem to be going—perhaps driven in some parts by the concerns about ECHR compliance—in a more legalistic direction. We are setting up frameworks that are talking about the process by which decisions are made by the panels rather than about what the minister said is the core objective, which is improving the outcomes for the young people. The key factor in improving the quality of children's panels is not the reorganisation of the process but the effectiveness of the disposals that are made and the consistency in taking those recommendations or decisions forward. The bill is relatively silent on those matters, which seems to me to be a deficiency.

Margaret Smith mentioned that the Kilbrandon report emphasised the importance of focusing on needs, as opposed to deeds. If it is needs that we are focusing on, the legal aspect must be secondary. The process was not explicitly defined from the beginning as a court-type process. In fact, it was supposed not to be a court-type process. The changes that are being proposed are making the process more legalistic and more court-like, with more legal niceties being observed. How can the minister demonstrate his claim that the proposals will improve outcomes for young people, as distinct from improving processes?

Robin Harper: I completely agree with what Des McNulty has been saying. Does he agree with me that we need to think about redefining

"in the interests of the child"

as "in the interests of the child or young person", in order to acknowledge the extent of the responsibilities that will come under the Children's Hearings (Scotland) Bill?

Des McNulty: The issue that I am most concerned about is what sort of help the young person will get as a result of the process. If we cannot demonstrate that the process that we are going through now in putting the bill through the Parliament is primarily ordered towards improving the help that the young person gets, there is at least a question to be raised about whether the bill is really hitting all the right buttons.

Adam Ingram: Will Mr McNulty not acknowledge that we are trying to be consistent across our policy framework—from our early years framework through getting it right for every child to the hearings system itself—and that we are trying to pull together a coherent, reliable framework for delivering better outcomes for children and young people?

By the way, I do not accept Mr McNulty's suggestion that we are increasingly legalising the system. He will have to show me evidence of that. At the moment, only about 2 per cent of cases involve any legal representation.

Des McNulty: A good deal of the bill includes provision for legal representation, and that issue has been constantly raised as a concern by people in the system. I will give the minister one example. Under the current arrangements—until very recently, anyway—panel members could speak to the reporter and get legal advice from them in the context of carrying out their duties. Now, panel members will apparently not be able to ask the reporter for advice. They are left on their own, in a sense, in making their adjudication. Expert legal advice is not for them but for the parties to the action and for the reporter.

The minister talks about continuity from pre-fives, through GIRFEC and up to the children's panel system, but I point out that case conferences are not run as legal tribunals. If we are saying that the hearings should be legal tribunals, or that they are legal tribunals, first and foremost, and that that is the most important factor in deciding how the system is to operate, the increased pressure in that regard could be at the expense of the utility of the system from the point of view of the person whom it is supposed to be helping.

Those are not easy matters to resolve, but it is hard to see what in the 100 or so pages of the bill will make the system clearer, easier and more user friendly for the individuals who are most directly affected by it.

Margaret Smith: I agree that there is a lack of clarity and that work will be required at stage 2. However, does Des McNulty not also accept that, although we want to keep the system as informal as possible, the approach must be proportionate? We are talking about a situation in which children can be deprived of their liberty and might accept offence grounds that will stay on their records for the rest of their lives, so proportionate legal support must be built into the system.

Des McNulty: I agree, but I would always move in the direction of informality, to keep the system as user friendly and non-threatening as possible. I would de-emphasise the tribunal aspect of the panel's work, as opposed to the helpful, advisory aspect. I am particularly interested in considering how we can improve the help that is given to young people and thereby improve outcomes for young people. My point is that much of what I have read in the bill, the policy memorandum and

the other accompanying documents is about process and legal aspects and not enough is about how the system works.

On the lack of clarity in relation to the figurehead, the committee said:

"the National Convener's role can only be fully clarified when a person has been appointed to the post."

That seems to be a strong criticism of the lack of specification for or definition of the post. What kind of post can be clarified only when someone has been appointed to it? It should be possible to be very clear about the role. The committee said that the key aspects of the role that have been identified are mutually contradictory and would be difficult for someone to carry out. The minister has apparently not been able to convince the committee that the role is sufficiently clear to enable the proposals to be taken forward. There are issues to do with the clarity of the proposals.

The final test against which I said that proposed changes should be measured is whether they contain obvious anomalies. The approach to safeguarders seems to be anomalous in the context of the bill, as the committee noted.

If the objective is to provide for greater consistency in Scotland, the bill could be a heavy sledgehammer to crack a relatively small nut, as Elizabeth Smith said. If, as the minister subsequently said, the purpose of the bill is to provide better and more focused help for young people, it is not clear that the bill will deliver that. It might deliver other things, but it does not focus sufficiently on outcomes—if better outcomes are the minister's objective.

There are issues to do with the lack of a clear rationale, the clarity of the structures, demonstrable positive impact and anomalies in the system, which suggest not that the minister must go back to first principles but that he should have considerable pause for thought before stage 2.

16:39

Adam Ingram: I am pleased that we have had the opportunity to debate the Children's Hearings (Scotland) Bill. I am equally pleased by the level of contribution to, and by the—by and large—consensual nature of, the debate, certainly in relation to the need for reform.

I will try to address some of the issues that were raised in the debate. I cannot promise to cover the whole lot today, but I hear what Karen Whitefield and Liz Smith said on the clarity of the national convener's function. Indeed, although I disagree with most of what Des Browne said—sorry, I meant Des McNulty; I also disagree with Des Browne—I hear what he said about that, too. I emphasise the point that the national convener has powers only over his or her independent functions, which are to recruit, select, train and support panel members. The national convener will not be a regulator for the system as a whole and will not provide some sort of quality-assurance role, as Karen Whitefield's quotation from North Ayrshire Council implied.

Karen Whitefield: The minister's attempt to address the point is helpful. However, given that the bill has been so long in the making, is the Government not concerned that so many local authorities have reservations about the national convener's role and what that person will do? North Ayrshire Council was not unique in its reservations, which were shared by COSLA. There is a need for real clarity around and specification of the tasks that the national convener will undertake. Without that, there will be a lack of confidence in the system from day 1. Everybody would be reluctant for that to happen.

Adam Ingram: I acknowledge that there could be a problem with that and that I have further work to do to provide information, further explanation and reassurances. I have undertaken to do that over the summer in the run-up to stage 2. I hope that colleagues on the committee will help in that regard through the scrutiny process, and that we will be able to agree on the way forward.

The bill has been a long time coming, but I make no apology for that, as it is the first significant reform of the children's hearings system since the Parliament was established. I do not apologise for the number or detail of discussions that I and my officials have undertaken since this time last year, or for changing our minds on some of the issues once we had spoken to and discussed them with stakeholders.

Although some of that process was challenging, we now have a stronger bill and a clearer recognition of the need for change. The Scottish Government has worked hard with its partners, wider stakeholders and the committee to deliver a better constructed and much needed piece of legislation. I accept that the job is not finished yet, and I expect stage 2 to be intensive.

Our diverse partner groups have helped to guide and shape the direction of the bill through their expertise and active participation in the consultation. That collective commitment serves to emphasise the broad support for the bill and for putting in place robust arrangements to secure the future of the children's hearings system in Scotland.

Of course, there are still differences that need to be worked through but I am clear that the Government is doing its job in balancing all the conflicting views that we received. I listened to those who wanted to contribute their views and,

when appropriate, acted on them. Even in some of the policy areas where the Government's position and that of key partners fundamentally diverged, we identified compromises that achieve the vast majority of what was desired. I suggest that that is the way in which we should proceed.

I also recognise that the bill is only one thread of the new approach to the children's hearings system. That is why we have started planning for the implementation work that will be required to support the bill and the wider reform programme should Parliament consent to the bill's enactment, as I hope it will. As members will know, an implementation working group has already been created and is looking at a range of priority issues. Again, that work typifies the huge amount of time and energy that lay people and professionals give to the hearings system. I noted that members across the chamber emphasised time and again their experience of the commitment and contribution of local panel members and others in the system. I give Margaret Smith the assurance that she sought that the involvement of partners in the shaping of the legislation will continue.

I continue to be mightily impressed by the commitment and dedication of partners, for which I am very grateful. Their commitment ensures that the system works well in some parts of the country at present, but I do not believe that it adds up to a coherent and reliable system. The bill proposes the creation of a system of support for panel members that will build on existing strengths and improve flexibility, ease pressure and help to ensure that the hearings system continues to operate smoothly at all times. I am confident that fewer, but larger, area support teams can meet local needs. The bill provides an opportunity to put in place support that not only meets the needs of panel members, but makes best and efficient use of resources while improving the effectiveness of that support and ensuring that it can adapt to meet future demands. We do not expect that the support provided under the new arrangements will vary hugely from best practice, but we want to ensure that best practice covers the country. It is not about adding new or additional tasks; it is about the best support being available consistently to all panel members across Scotland. Christina McKelvie highlighted that point.

I also know that Scotland's Commissioner for Children and Young People, children's organisations and others are keen on a strengthening of children's rights, including their right to be heard. We need to put that at the heart of the system. We recently supported work by the Children's Parliament that took the views of children on their experience of the hearings system. The bill already provides for the voice of the child to be taken into account, but we want to do more than that. That is why we are discussing the voice of the child in the children's hearings system with stakeholders across the country.

We want children to be able to participate effectively in hearings, but we do not think that the bill needs a statutory right of advocacy support for children, and the committee supports that view. In supporting children to participate and engage before, during and after a hearing, we must ensure that support is tailored to the needs and preferences of the child. The committee asked us to consider how a report on the child's views could be provided in advance of a hearing. I acknowledge that that raises issues that need to be addressed, and I will ensure that our consideration is taken forward in full discussion with partners.

There has been much discussion this afternoon about the feedback loop, which will enable the national convener to create a picture of how local authorities are responding to compulsory supervision orders. I say to Claire Baker, Ken Macintosh and others that the local feedback mechanism is inherent in the process, in that the national convener will collect the information from the local authority and it will be disseminated through the area support teams to local panel members. Having that information will allow the panel a better understanding of the types of supervision that have proved effective, which in turn could help to inform future decision making and thus achieve better outcomes for children—I note that Des McNulty suggested we need to improve outcomes. The feedback loop will also allow the national convener to identify areas of good practice around the country that can be shared more widely. The committee has asked for more detail around the operation of the feedback loop, and I will ensure that work is done on that with the full engagement of partners.

On safeguarders, I have heard views that their role should be included and that Lord Gill's recommendations should be addressed. However, there is a striking similarity between the intentions behind the bill's regulation-making powers and the improvements that Lord Gill suggested should be made, which is evidence that Lord Gill and the bill—and, indeed, Ken Macintosh—have correctly identified the areas of potential improvement. Lord Gill suggested that the various partners should work together to drive forward those improvements. Use of the regulation-making powers that the bill provides will allow safeguarders to lead the way on that agenda. In fact, those very points will be discussed with more than 70 safeguarders in Edinburgh next week. I anticipate being able to provide a positive report on progress to the committee in due course.

The bill's progress offers us all new opportunities and sets us all challenges. We will

never take the outstanding contribution that our lay people make to work in this area for granted, but I know that I can rely on the enthusiasm and commitment of our key players throughout the process as we strive to improve the life chances of our most vulnerable children and young people.

Children's Hearings (Scotland) Bill: Financial Resolution

16:51

The Presiding Officer (Alex Fergusson): The next item of business is consideration of motion S3M-6161, in the name of John Swinney, on the financial resolution in respect of the Children's Hearings (Scotland) Bill. I invite Adam Ingram to move the motion.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Children's Hearings (Scotland) Bill, agrees to any expenditure of a kind referred to in paragraph 3(b)(iii) of Rule 9.12 of the Parliament's Standing Orders arising in consequence of the Act.—[*Adam Ingram*.]

The Presiding Officer: The question on the motion will be put at decision time.

Business Motions

16:51

The Presiding Officer (Alex Fergusson): The next item of business is consideration of business motion S3M-6575, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees the following programme of business—

Wednesday 23 June 2010

2.00 pm	Time for Reflection
followed by	Parliamentary Bureau Motions
followed by	Ministerial Statement: UK Emergency Budget – End Year Flexibility
followed by	Stage 1 Debate: Housing (Scotland) Bill
followed by	Financial Resolution: Housing (Scotland) Bill
followed by	Business Motion
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time
followed by	Members' Business

Thursday 24 June 2010

9.15 am	Parliamentary Bureau Motions
followed by	Scottish Liberal Democrats' Business
11.40 am	General Question Time
12 noon	First Minister's Question Time
2.15 pm	Themed Question Time Health and Wellbeing
2.55 pm	Scottish Government Debate: The Independent Review of Sheriff and Jury Procedures
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time
followed by	Members' Business

Wednesday 30 June 2010

9.15 am	Time for Reflection
followed by	Parliamentary Bureau Motions
followed by	Stage 3 Proceedings: Criminal Justice and Licensing (Scotland) Bill
2.30 pm	Continuation of Stage 3 Proceedings: Criminal Justice and Licensing (Scotland) Bill
followed by	Business Motion
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time
followed by	Members' Business

Thursday 1 July 2010

9.15 am	Parliamentary Bureau Motions
followed by	Stage 3 Proceedings: Crofting (Scotland) Bill
11.40 am	General Question Time
12 noon	First Minister's Question Time
2.15 pm	Themed Question Time Rural Affairs and the Environment; Justice and Law Officers
2.55 pm	Finance Committee Debate: Budget Strategy Phase Report
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time
followed by	Members' Business—[*Bruce Crawford*.]

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S3M-6576, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a timetable for stage 1 of the Wildlife and Natural Environment (Scotland) Bill.

Motion moved,

That the Parliament agrees that consideration of the Wildlife and Natural Environment (Scotland) Bill at Stage 1 be completed by 3 December 2010.—[*Bruce Crawford*.]

Motion agreed to.

Parliamentary Bureau Motions

16:53

The Presiding Officer (Alex Fergusson): The next item of business is consideration of a Parliamentary Bureau motion. I ask Bruce Crawford to move motion S3M-6577, on the designation of a lead committee for the Autism (Scotland) Bill.

Motion moved,

That the Parliament agrees that the Education, Lifelong Learning and Culture Committee be designated as the lead committee in consideration of the Autism (Scotland) Bill at Stage 1.—[*Bruce Crawford*.]

The Presiding Officer: The question on the motion will be put at decision time.

The next item of business is consideration of a further Parliamentary Bureau motion. I ask Bruce Crawford to move motion S3M-6578, on substitution on committees.

Motion moved,

That the Parliament agrees that—

Nanette Milne be appointed to replace Jamie McGrigor as the Scottish Conservative and Unionist Party substitute on the Health and Sport Committee;

Alex Johnstone be appointed to replace Margaret Mitchell as the Scottish Conservative and Unionist Party substitute on the Local Government and Communities Committee;

Jamie McGrigor be appointed to replace Nanette Milne as the Scottish Conservative and Unionist Party substitute on the Rural Affairs and Environment Committee.—[*Bruce Crawford*.]

The Presiding Officer: The question on that motion will also be put at decision time, to which we will come at 5 o'clock. I suspend business until then.

16:53

Meeting suspended.

17:00

On resuming—

Decision Time

The Presiding Officer (Alex Fergusson): There are four questions to be put as a result of today's business.

The first question is, that motion S3M-6512, in the name of Adam Ingram, on the Children's Hearings (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees to the general principles of the Children's Hearings (Scotland) Bill.

The Presiding Officer: The second question is, that motion S3M-6161, in the name of John Swinney, on the financial resolution to the Children's Hearings (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Children's Hearings (Scotland) Bill, agrees to any expenditure of a kind referred to in paragraph 3(b)(iii) of Rule 9.12 of the Parliament's Standing Orders arising in consequence of the Act.

The Presiding Officer: The third question is, that motion S3M-6577, in the name of Bruce Crawford, on the designation of a lead committee, be agreed to.

Motion agreed to,

That the Parliament agrees that the Education, Lifelong Learning and Culture Committee be designated as the lead committee in consideration of the Autism (Scotland) Bill at Stage 1.

The Presiding Officer: The final question is, that motion S3M-6578, also in the name of Bruce Crawford, on substitution on committees, be agreed to.

Motion agreed to,

That the Parliament agrees that—

Nanette Milne be appointed to replace Jamie McGrigor as the Scottish Conservative and Unionist Party substitute on the Health and Sport Committee;

Alex Johnstone be appointed to replace Margaret Mitchell as the Scottish Conservative and Unionist Party substitute on the Local Government and Communities Committee;

Jamie McGrigor be appointed to replace Nanette Milne as the Scottish Conservative and Unionist Party substitute on the Rural Affairs and Environment Committee.

Sexual Assault Victims Initiative East Kilbride

The Deputy Presiding Officer (Alasdair Morgan): The final item of business is a members' business debate on motion S3M-6200, in the name of Margaret Mitchell, on SAVI East Kilbride. The debate will be concluded without any question being put.

Motion debated,

That the Parliament congratulates the Sexual Assault Victims Initiative (SAVI), based in East Kilbride, on its official launch last month and the launch of its 2010 There for Them campaign, which aims to raise funds to help establish a 24-hour phone line and to cover the organisational costs of the charity; recognises the work of the charity, which aims to help victims of sexual assault by providing one-to-one support for victims and their families, acts as a source of legal, medical and psychological information to help victims and families through the prosecution process and offers relaxation and coping techniques to victims of sexual abuse; commends the efforts of the volunteers who work for the charity, and notes the particular effort of one volunteer, Dougie, who will have run over 1,287 miles by the end of this year as he runs three times a week through East Kilbride with his There for Them flag as part of the fund-raising efforts and to raise awareness of the campaign.

17:02

Margaret Mitchell (Central Scotland) (Con): SAVI—the Sexual Assault Victims Initiative—was founded by Annmarie Campbell, a forensic psychologist and registered hypnotherapist who specialises in work with children and young people. It is a registered charity that aims to fill a gap in the provision of services for victims of rape, sexual assault and sexual abuse. I am delighted that some SAVI members are in the public gallery to hear the debate this evening.

I first met SAVI volunteers in March this year when I attended the East Kilbride crime prevention panel award ceremony, at which they were nominated for the *East Kilbride News* rose bowl. That is an award given to a group or individual who has benefited the community through their work for a charity or other good cause. Thereafter, I arranged to visit the volunteers in their new base in East Kilbride to find out more about the work that their charity does.

From that meeting, I learned that SAVI helps victims by providing a 24-hour helpline—this means that volunteers are there to help victims at any hour of the day or night—and by offering one-to-one support to victims and, crucially, their families. It is often forgotten that it is not just the victim who is affected by their experience of sexual abuse and that this horrendous crime has a huge impact on the rest of the family, too.

SAVI acts as an information point on any legal, medical and psychological issue that may arise for the young victims and their families, and it offers access to relaxation and coping techniques and other appropriate therapies for recovery. Furthermore, the charity has identified key issues that it seeks to address. For instance, it is a sobering thought that a child in this country is more likely to be sexually assaulted than to break a leg. However, the child who suffers a broken leg can go straight to accident and emergency and get all the help and treatment required, while the child who is sexually assaulted has only a 25 per cent chance of accessing an appropriate service. Clearly, the service delivery for children and young people is inadequate.

There is also a basic requirement to establish best practice for service delivery. Without that, there is the danger that the recovery process will be unnecessarily prolonged. Despite the efforts of the Crown Office to reduce the time between the reporting of an incident and the trial, the legal process is still too long. That is where the SAVI volunteers come in: they are trained and well placed to help victims and families, starting from the initial report through to the trial process and beyond, and they work in a way that will not contaminate any testimonial or evidence relevant to a forthcoming trial.

In addition, SAVI provides information about other relevant support that may be required. The charity receives no funding from the Government; it relies solely on donations as well as on the eight volunteers who raise funds to pay for its 24-hour helpline and the costs of running the organisation, and who raise awareness of the charity.

SAVI's there for them campaign encourages volunteers and members of the local community to get involved in fundraising projects from coffee mornings to sponsored events. As the motion states, the efforts of one of SAVI's volunteers, Dougie, are to be commended and deserve a mention. Three times a week, come rain or shine, Dougie runs through East Kilbride with the there for them flag. By the end of the year, he will have run a staggering 1,287 miles for the charity.

In general, awareness of the needs of victims of abuse and their families must be improved. Specifically, awareness of the impact of abuse needs to be addressed—especially the impact on a child's education, which is all too often snatched away by their experiences, causing major issues for victims in both the short term and the long term.

Sadly, despite supposedly greater awareness all round, most people are still in the dark about how best to react when a child discloses abuse. Few organisations train their members in the facts and even fewer train them in how to react appropriately

to a child either at disclosure or afterwards. That is why, since the establishment of SAVI, the charity has been contacted by a number of social workers from throughout Scotland, most of whom have wanted information about the services in their area or to ask a few basic questions about what a victim of rape, sexual assault or abuse might need.

Given all that, there can be no doubt about the invaluable nature of the work and service that SAVI and its volunteers provide for victims and their families. I wish them well for the future and hope that tonight's debate will help them to continue to perform their vital work. I very much look forward to the minister's response.

17:07

Linda Fabiani (Central Scotland) (SNP): I thank Margaret Mitchell for bringing the issue to the chamber tonight. It is a worthwhile topic. I am sorry that, unlike her, I was unable to attend the launch of the there for them campaign, which I understand was very successful. The award that was given by the *East Kilbride News* was well deserved. That was the first time that I had come across SAVI and Annmarie Campbell, its founder. I have since visited the office in East Kilbride and, like Margaret Mitchell, I have been impressed by the work that is being done there and the absolute commitment of the volunteers. I do not have much to add to what Margaret Mitchell said—she has covered all the bases—but I will raise some specific issues.

It must be borne in mind that it is only comparatively recently that society has started to discuss openly the fact that child abuse happens within and outwith families and the huge psychological effect that it has on the victims and those who are close to them. It is quite daunting for families to have to deal with such an issue on their own or with help from social work departments, health boards and institutions. Therefore, it is very important that there is now an organisation in Lanarkshire that is staffed by people who have had direct experience of dealing with such sensitive issues.

I was hugely impressed by the informality that is apparent at SAVI and the knowledge and commitment of the volunteers. I understand that there are now 23 volunteers on a waiting list for training, which shows the recognition of the issues among people who want to help and do the best that they possibly can.

I was impressed by the manner in which SAVI deals with clients and those who come along for a chat. The service is described as non-directive but holistic, and it aims to create an atmosphere in which people almost feel at home and have confidence in those who are counselling them and offering support.

I was interested to learn about the effect that such abuse can have on people, and the way in which it manifests itself, whether that is through eating disorders, substance or alcohol abuse or self-harm. I learned about the importance of practical things such as housing: where people stay and the type of support that they get. The befriending element is important, because everyone who has been through a traumatic experience needs friends, and it can take quite a while for someone to build up those relationships again when they have a natural distrust of those around them.

SAVI has noted some key issues that require to be addressed. One major issue, to which Margaret Mitchell referred, is the time that elapses between an incident being reported and the start of the trial process. I understand that the Crown Office has been trying to address the matter, but the reality is that those cases are simply not being fast-tracked.

Court processes need to be managed to ensure that people feel confident in working their way through the system. The buddying element of what SAVI does is extremely important in that regard. I learned about schools, and how difficult it is for someone who has been abused in that way to try to fit back into the school system when their whole way of thinking about life has changed.

I see that time has moved on quickly—there is so much to say on this subject. I will finish by saying that although we talk a great deal about the voluntary sector—the third sector, as it is sometimes called—being very precious in dealing with various issues, the experience of groups such as SAVI is very important in dealing with this particular issue. SAVI is the only service in South Lanarkshire that offers this type of support. I would like the health board and the local authority to recognise the value of such a service, and to have detailed discussions with the volunteers at SAVI on how we can all move forward in the best interests of those who need this type of service.

17:12

Andy Kerr (East Kilbride) (Lab): I congratulate Margaret Mitchell on bringing this worthwhile debate to the chamber. I apologise for leaving early—depending on how long the debate goes on for—due to an unavoidable and pressing engagement.

Out of what must be an unimaginable tragedy and challenge for families, and for one family in particular, a fantastic service has arisen. This unique service, which is available throughout Lanarkshire, will, I am sure, be envied—and copied—in many other areas.

MSPs often see organisations such as SAVI that grow organically and are able to identify gaps in our public services. Through their experience, they recognise some of the challenges and offer support. That is part of the fantastic work that SAVI does. It is clear to us all that SAVI has identified challenges at Scottish Government and local government levels in the provision of services, and it is the organisation's experience and understanding that have allowed it to do so. It has then been possible for those weaknesses—which Margaret Mitchell and Linda Fabiani mentioned—to be challenged. Of particular importance are the time between an incident being reported and the legal process, and delays in the system.

The NSPCC's report, "Sexual abuse and therapeutic services for children and young people: The gap between provision and need", identifies some of the outcomes that Linda Fabiani mentioned, such as eating disorders, substance and alcohol misuse, self-harm and issues of trust. SAVI works hard to challenge the idea that the victim should feel guilty, and it is great to know that the service exists.

Margaret Mitchell mentioned that a child is more likely to be sexually assaulted than to break a leg, and referred to the difference in access to treatment and services. The NSPCC report states that 21 per cent of females and 11 per cent of males have experienced some form of childhood sexual abuse, which is truly awful. That highlights the absolute need for services to be available, and we recognise that SAVI carries out such work.

We have already recognised the role and commitment of the volunteers in the service. It is heartening to know that they are there, and that there is a waiting list of those who wish to volunteer after appropriate training. We also recognise the work that Douglas Campbell is doing in running round the town. I am willing to make a commitment to join him on one of his runs and to put my running to some good use in that sense. However, that is a less important matter; what is important is ensuring that we learn from SAVI and other projects throughout Scotland about best practice in the delivery of such services. That is critical if we are to ensure that we sustain services not just in Lanarkshire but throughout Scotland.

We must also deal with the issue of the court processes. I am sure that the minister will wish to address that and concern himself with it.

In closing, I congratulate Margaret Mitchell again on bringing the debate to the chamber and recognising a fantastic organisation that is growing and developing and which has at its heart the needs of individuals and their families. SAVI is helping them to cope with what are incredibly traumatic situations and it is great to know that it is around to provide that support to them.

17:16

Bill Aitken (Glasgow) (Con): I, too, congratulate Margaret Mitchell on bringing the matter to the chamber and presenting the case in such an articulate manner. As the first non-local member to participate in the debate, I also congratulate the members of SAVI on all that they do. Over the years, there have been many debates in the chamber on the way in which the voluntary sector contributes to Scottish life, and this evening's debate is another classic illustration of that.

In the times ahead, when we will all be making important decisions on the budgets for various portfolios, there can be no doubt that Scottish communities in general will have to look more and more to the voluntary sector to provide services. It is indeed inspiring that SAVI clearly provides a service that is probably unique in Scotland for the people of East Kilbride.

Sexual offending is a very serious matter and it has the greatest and most traumatic effect on its victims, particularly when the victim is a child. Of course, the effects of that assault—physical, emotional and psychological—spread, because the families themselves suffer. We have to recognise that those victims by proxy deserve support from all of us. It is in that respect that SAVI appears to have been carrying out a difficult task remarkably effectively.

The psychological damage that sexual assault can cause a child is manifest. What the child needs more than ever is a listening voice, the ability to pick up a phone or go and see someone, to know what services are available, and just to have the words of comfort that are so necessary in the days and indeed years following an incident of assault. That is what SAVI provides. As Margaret Mitchell said, service delivery for children and young people in the national health service is in some respects not adequate, and SAVI is to be congratulated on meeting a real need in that respect.

I heard what Margaret Mitchell and others said about the prosecution service and how it might be sharpened up to deal with such cases. It is certainly highly desirable, particularly in the case of a young victim, for the criminal justice process to be as speedy as possible. Everyone's recollections vary from time to time, but we must understand that, for a young person, a period of seven or eight months from indictment to trial is very lengthy.

To be frank, I do not know how much more can be done. Perhaps the minister will address that. I

have seen the efforts that have been made, but it is a matter of some concern that criminal trials in general seem to take so much longer nowadays. I accept that there are reasons for that, but when a young person is the victim of an assault of a sexual nature, the case should be expedited and concluded as quickly as possible.

Once again, I congratulate SAVI. What it does is little short of wonderful. It is warming to know that there are still so many people in Scotland's communities who are able to make such a significant contribution to those communities' welfare.

17:20

Hugh O'Donnell (Central Scotland) (LD): As the members who spoke before me did, I congratulate Margaret Mitchell on bringing the debate to the chamber. It is entirely appropriate, given that the previous debate hinged on children's hearings. All too often, issues relating to sexual abuse lie in the background of the behaviours of young people in the care and protection cases that go to children's hearings. Understandably, they find it challenging to disclose those issues, often because sexual abuse is a difficult subject for young people generally but also because the issue affects other members of their family. Consequently, they manifest disruptive behaviour in schools and inappropriate behaviour, and may find themselves in front of a children's panel. The service that SAVI offers seems to be uniquely positioned to provide a safe, informed and well-trained outlet for such young people. All of us should welcome that.

Another point struck me as I read the briefing paper that was sent to all members. As Bill Aitken said, we rightly praise our voluntary sector. The roots of many organisations that we know, such as Barnardo's, Children 1st and the National Society for the Prevention of Cruelty to Children, which are now national, lie firmly in individuals or groups of individuals who in the 19th and 20th centuries identified an issue and worked and raised funds to provide a service. Clearly, that is what people at SAVI have done. They are to be commended on the fact that they have done it, as far as I know and can see, entirely without local authority, health board or Big Lottery Fund support. In this day and age, it is remarkable to achieve such a level of service with no input from statutory organisations.

I wish SAVI success in the fund-raising activities in which it is engaged. I must add the caveat that I will not join Andy Kerr in running the streets of East Kilbride; if I did, it might put too great a strain on the health services of Lanarkshire.

We have become increasingly reliant on our voluntary sector to provide services that, almost inevitably, will shrink as a result of the economic circumstances. As Bill Aitken said, it is heartening that there are still organisations with a single purpose and community spirit that are prepared to create a service on their own and to deliver it to those who most need it.

I congratulate all those who are involved in the provision of the service and look forward to hearing from the minister how it may be examined and, possibly, rolled out across Scotland.

17:24

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I welcome the opportunity to speak in tonight's debate on the Sexual Assault Victims Initiative. As other members have done, I thank Margaret Mitchell for bringing the matter to the chamber.

Sexual abuse is horrendous on every level. It scars the lives of victims and families—in many cases, irreparably. Some suffer one attack, whereas others are forced to endure a childhood—even decades—of sustained violent sexual attack. Either way, the horror of such incidents cannot be easily quelled.

Scotland needs organisations such as SAVI to be set up in our communities to be lifelines for the victims of sexual assault. As we have heard, SAVI was set up by Annmarie Campbell after her 14-year-old daughter was raped. It helps the victims of sexual assault and their families in the aftermath of such a dreadful experience. It offers them advice and tries to help the victims to cope with the trauma. As members have said, it acts as a friend. It provides medical, psychological and legal assistance, as well as coping techniques on a one-to-one basis. We have all heard the devastating stories of young men and women who have not had such help, guidance or support in the aftermath of sex-related crime.

Unfortunately, some of us have, as MSPs, heard from people who have been the victims of sexual attacks by family members or strangers. As a constituency MSP, I know how difficult that is to deal with, and how difficult it is to understand how individuals and families cope. Organisations such as SAVI are therefore much needed and welcome. As a Lanarkshire MSP, I am glad that there are such groups to offer assistance to victims, and I hope that more of them will develop throughout Scotland.

As other members do, I think it fitting that we commend SAVI on its there for them campaign, which is a fabulous endeavour that has been undertaken by Annmarie Campbell's husband, Dougie. As has been said, SAVI's work is gaining more recognition, and support for it is growing in the community thanks to that campaign. I read a

statement by Annmarie Campbell when I was reading about the charity. She said:

"Even if there are days when Dougie can't run, volunteers have pledged to carry the flag for him, so someone will be out on the road every day of 2010".

That is a fabulous display of community spirit and unity against abhorrent acts of violence. I am glad that Andy Kerr, who is the local MSP for East Kilbride, has volunteered to run round the streets of East Kilbride. I understand that he does so regularly; he will do so now with more purpose.

Again, I thank Margaret Mitchell for lodging the motion. More important, I thank SAVI and its volunteers, as other members have done. Those volunteers give their time freely to provide the necessary support for victims and their families. I hope that their work will be taken up throughout the country and that lessons about the good practice that they have established and display can be learned by professionals in our criminal justice system to continually improve services for victims.

Like at least one other member, I apologise for having to leave the chamber, with no disrespect to members or the subject of the debate: I have another meeting to attend in two and a half minutes.

17:28

The Minister for Community Safety (Fergus Ewing): I thank Margaret Mitchell for lodging the motion to enable us to have this debate and to recognise the good work that SAVI undertakes in East Kilbride. I put on record my thanks to the volunteers who are involved in the delivery of the service and congratulate SAVI on the recent launch of its 2010 there for them appeal.

I have been interested to learn a little more about the topic from Margaret Mitchell and the other members who have spoken, in particular about SAVI. I understand that it aims to support young victims of sexual abuse and that that support is given in many ways. It offers one-to-one support to victims and their families and operates 24-hour helpline support to them, as Margaret Mitchell and other members have said. It acts as an information point on legal, medical and psychological aspects that may arise for young victims and their families. It also offers access to relaxation and coping techniques and other appropriate therapies for recovery, and information and referral to other services if that is necessary.

All members present—I am no exception—have probably been asked, at one time or another, to provide some kind of advice or support to young people who have been the victims of the most appalling crimes of a sexual nature. We all remember most vividly the details of those cases, such as when a young woman, accompanied perhaps by a mother or relative, comes to us to seek advice. The memory of the pain and suffering experienced by the individuals who have consulted me will never entirely leave me.

The difficulties that a young woman who has been raped might face include being afraid to go out of her house or being afraid to go to certain areas where she perceives that she might meet her assailant or the associates of her assailant. In some cases, the victim might have been taunted by associates of her assailant. Low self-esteem is a common and difficult feature.

Recovery, particularly from the most serious crime of rape or any other serious sexual assault, is a slow process. Therefore, any organisation that provides support to females who have been affected in that way—although victims are not exclusively female, as young boys obviously can be, and sadly have been, affected by sexual abuse as well—is to be welcomed. Obviously, a large number of organisations and individuals are involved in providing such support. I know that Victim Support Scotland, for example, provides assistance to between 12,000 and 17,000 children a year who have been affected by crime. Of those, 200 to 300 are helped through the victims of youth crime—VOYCE—service, which says that 73 per cent of all victims of assault that it deals with are young people aged 16 or under. A significant number of those young people who receive assistance from Victim Support Scotland have been the victims of assault. Other voluntary organisations, as Mr Aitken and Mr Kerr mentioned, provide services on a one-to-one basis for the victims of the most serious crimes. We applaud the work that is done by such organisations, as well as the work of ChildLine, which provides support of a different variety that is also to be welcomed.

One issue that was mentioned in the course of the debate is that of trial times and of delays in court. Like Bill Aitken, I recognise that there are reasons why court cases are taking longer. As it happens, I was reading about that this afternoon in Sheriff Principal Bowen's "Independent Review of Sheriff and Jury Procedure", which we are to debate in the next couple of weeks. He points out that, nowadays, the need to examine evidence from DNA and closed-circuit television and the contents of mobile phones adds to the length of trials.

That said, one way in which we as a nation, we in Government and we in this Parliament can help to ensure that more assistance is given to victims, such as those whom SAVI supports, is to ensure that the criminal courts and justice system is organised more effectively. For example, members might be surprised to know that of 6,000

cases that are set to go to trial under the solemn procedure and for which citations have been sent out, only 1,000 of them actually have evidence, so in 5,000 cases citations have been sent out to witnesses who will never be called to give evidence.

Plainly, it is not possible—nor would it be appropriate or right, as it would conflict with the presumption of innocence—to try to remove those cases, but I think that one could reduce the number. I mention that because that is one practical way whereby, working together, we might provide more resources and time to help victims of serious crime, in particular children who are victims of sexual abuse. Although those issues are not specifically canvassed in the motion, I wanted to reply to points that have been raised.

Hugh O'Donnell suggested that we should consider rolling out SAVI throughout Scotland. The debate has highlighted the importance of ensuring that vulnerable children who have been victims of serious crimes of a sexual nature can receive a service from some source. That is not necessarily an easy task. I have briefly canvassed some of the ways in which such youngsters receive some support, but I am not persuaded—I do not think that any of us could say this hand on heart—that all the youngsters who need such support are necessarily getting it.

There is therefore a problem of unmet need, which we should address. One way to do that would be to learn more about SAVI and its work. It is a relatively new organisation and, no doubt, there will be evaluation, assessment and further communication between it and social work departments. There is a lot more work to be done.

The most useful facet of Margaret Mitchell's bringing this debate to the chamber is that she has raised the general issue of how we look after children who have been the victims of such abominable crimes and how we can do so more effectively in the future. The debate has allowed us to make a start on some of these difficult issues, and Margaret Mitchell is to be congratulated on providing us with that opportunity.

I will close by expressing once again my appreciation for the contribution that SAVI makes to the lives of children and their families in East Kilbride. I wish the organisation every success for the future.

Meeting closed at 17:36.

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