



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# MEETING OF THE PARLIAMENT

Thursday 24 June 2010

Session 3

---

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2010.

Applications for reproduction should be made in writing to the Information Policy Team, Office of the Queen's Printer for Scotland, Admail ADM4058, Edinburgh, EH1 1NG, or by email to:  
[licensing@ogps.gov.uk](mailto:licensing@ogps.gov.uk).

OQPS administers the copyright on behalf of the Scottish Parliamentary Corporate Body.

Printed and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by  
RR Donnelley.

---

Thursday 24 June 2010

## CONTENTS

	Col.
<b>TOURISM</b> .....	27651
<i>Motion moved—[Iain Smith].</i>	
<i>Amendment moved—[Jim Mather].</i>	
<i>Amendment moved—[Gavin Brown].</i>	
<i>Amendment moved—[Lewis Macdonald].</i>	
Iain Smith (North East Fife) (LD) .....	27651
The Minister for Enterprise, Energy and Tourism (Jim Mather) .....	27653
Gavin Brown (Lothians) (Con) .....	27656
Lewis Macdonald (Aberdeen Central) (Lab) .....	27658
Marilyn Livingstone (Kirkcaldy) (Lab) .....	27661
Rob Gibson (Highlands and Islands) (SNP) .....	27663
David Whitton (Strathkelvin and Bearsden) (Lab) .....	27665
Joe FitzPatrick (Dundee West) (SNP) .....	27667
Sarah Boyack (Edinburgh Central) (Lab) .....	27669
Gavin Brown .....	27671
Lewis Macdonald .....	27672
Jim Mather .....	27674
Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD) .....	27676
<b>FREE PERSONAL CARE</b> .....	27679
<i>Motion moved—[Ross Finnie].</i>	
<i>Amendment moved—[Shona Robison].</i>	
<i>Amendment moved—[Murdo Fraser].</i>	
Ross Finnie (West of Scotland) (LD) .....	27679
The Minister for Public Health and Sport (Shona Robison) .....	27681
Murdo Fraser (Mid Scotland and Fife) (Con) .....	27683
Jackie Baillie (Dumbarton) (Lab) .....	27685
Christine Grahame (South of Scotland) (SNP) .....	27687
Helen Eadie (Dunfermline East) (Lab) .....	27689
Sandra White (Glasgow) (SNP) .....	27692
Marlyn Glen (North East Scotland) (Lab) .....	27694
Mary Scanlon (Highlands and Islands) (Con) .....	27695
Dr Richard Simpson (Mid Scotland and Fife) (Lab) .....	27698
Shona Robison .....	27700
Jamie Stone (Caithness, Sutherland and Easter Ross) (LD) .....	27702
<b>SCOTTISH EXECUTIVE QUESTION TIME</b> .....	27705
<b>GENERAL QUESTIONS</b> .....	27705
Pyrolysis .....	27705
Council Tax Freeze .....	27706
Air Conditioning Systems (Inspection and Maintenance) .....	27707
Council Tax Freeze .....	27708
Care Leavers .....	27708
St Ninian's High School (Catchment) .....	27709
Language Skills (Five-year-olds) .....	27710
Abdelbaset Ali Mohamed al-Megrahi .....	27711
<b>FIRST MINISTER'S QUESTION TIME</b> .....	27713
Engagements .....	27713
Secretary of State for Scotland (Meetings) .....	27716
Cabinet (Meetings) .....	27718
Emergency Budget .....	27720
Cancelled NHS Operations (Statistics) .....	27721
Research Institutes (Funding) .....	27722
<b>SCOTTISH EXECUTIVE QUESTION TIME</b> .....	27725
<b>HEALTH AND WELLBEING</b> .....	27725
NHS Lanarkshire (Capital Funding) .....	27725
Caithness General Hospital (Maternity Services) .....	27726
NHS Greater Glasgow and Clyde (Meetings) .....	27727

National Health Service Board Elections (Pilot) .....	27728
Front-line Health Workers (Protection) .....	27730
Private Letting Agencies (Regulation) .....	27731
Sight Loss (Early Intervention) .....	27732
National Health Service Dentists (Orkney) .....	27734
Low-cost Initiative for First-time Buyers .....	27735
National Health Service Boards (Expenditure Reduction) .....	27736
National Health Service Staff (Disabled Employees) .....	27738
Patient Care .....	27739
<b>“INDEPENDENT REVIEW OF SHERIFF AND JURY PROCEDURE”</b> .....	27741
<i>Motion moved—[Kenny MacAskill].</i>	
<i>Amendment moved—[John Lamont].</i>	
<i>Amendment moved—[Robert Brown].</i>	
The Cabinet Secretary for Justice (Kenny MacAskill) .....	27741
John Lamont (Roxburgh and Berwickshire) (Con) .....	27745
Robert Brown (Glasgow) (LD) .....	27748
Richard Baker (North East Scotland) (Lab) .....	27751
Stewart Maxwell (West of Scotland) (SNP) .....	27754
Cathie Craigie (Cumbernauld and Kilsyth) (Lab) .....	27757
Nigel Don (North East Scotland) (SNP) .....	27760
Nicol Stephen (Aberdeen South) (LD) .....	27763
Ian McKee (Lothians) (SNP) .....	27765
John Wilson (Central Scotland) (SNP) .....	27767
Mike Pringle (Edinburgh South) (LD) .....	27770
Bill Aitken (Glasgow) (Con) .....	27773
James Kelly (Glasgow Rutherglen) (Lab) .....	27776
The Minister for Community Safety (Fergus Ewing) .....	27778
<b>PARLIAMENTARY BUREAU MOTIONS</b> .....	27783
<i>Motion moved—[Bruce Crawford].</i>	
<b>DECISION TIME</b> .....	27784
<b>DEAF AWARENESS WEEK 2010</b> .....	27792
<i>Motion debated—[Bill Kidd].</i>	
Bill Kidd (Glasgow) (SNP) .....	27792
Cathie Craigie (Cumbernauld and Kilsyth) (Lab) .....	27794
Mary Scanlon (Highlands and Islands) (Con) .....	27795
Christine Grahame (South of Scotland) (SNP) .....	27797
Hugh O'Donnell (Central Scotland) (LD) .....	27798
Nigel Don (North East Scotland) (SNP) .....	27799
The Minister for Housing and Communities (Alex Neil) .....	27801

---

# Scottish Parliament

Thursday 24 June 2010

[The Presiding Officer *opened the meeting at 09:15*]

## Tourism

**The Presiding Officer (Alex Fergusson):** Good morning. The first item of business is a debate on motion S3M-6635, in the name of Iain Smith, on tourism.

09:15

**Iain Smith (North East Fife) (LD):** In this short debate, I will not waste too much of the Parliament's time outlining the importance of tourism to Scotland's economy. We all know that tourism is one of the key sectors in the economy. It contributes more than £4 billion and employs more than 200,000 people, which represents about 9 per cent of the workforce. In some parts of Scotland, including my constituency of North East Fife, tourism is even more significant.

We all share the common objective of sustaining and improving the tourism industry in Scotland. Indeed, figures suggest that tourism in Scotland did relatively well last year. With a combination of the homecoming marketing campaign, favourable exchange rates and the staycation phenomenon, it appears that Scotland bucked the trend by increasing visitor numbers in 2009. However, that has to be seen in the context of a steady decline in visitor numbers in the previous three years. The then chief executive of VisitScotland made the frank admission to the Economy, Energy and Tourism Committee on 28 April that

"we are not on a trajectory to achieve 50 per cent growth".—[*Official Report, Economy, Energy and Tourism Committee*, 28 April 2010; c 3586.]

The truth is that, despite its many strengths, Scotland's tourism industry is vulnerable. Figures that were released last week by the accountants PKF show that hotel occupancy in Scotland fell by 4.3 per cent in April while the rate in the rest of the United Kingdom rose by 1.9 per cent. Even more worryingly, room yields were down by 7 per cent, and Edinburgh showed a drop of more than 10 per cent.

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** I wonder whether the member will concede that the ash cloud had a more dramatic effect on Scotland than it had elsewhere during that period?

**Iain Smith:** I was going to make that point in my next sentence.

Extraordinary factors were at play, such as the ash cloud, but the figures demonstrate that Scotland's tourism industry is vulnerable to outside influences and that there are difficult times ahead. The world economic crisis and the fragility of the home economy do not bode well for the tourism sector. There are clear signs that business tourism, which accounts for 20 per cent of tourism expenditure, remains under significant pressure. That is a particular concern for many of our cities, which rely heavily on business tourism, and as belts are tightened we are all likely to think twice about taking that extra weekend away.

Now more than ever, Scotland's tourism industry needs clear leadership, but what does it get? Chaos at the heart of VisitScotland and confusion at the heart of Government. At a time when "steady as she goes" might have been the wise approach, we see instead the new chair of VisitScotland grabbing the helm from the captain and steering the organisation off on what is, as yet, an unknown course.

It seems that within days of being appointed by John Swinney as the new chair of VisitScotland, Mike Cantlay decided that the strategy had to change and the chief executive had to go. I find it hard to believe that he would act in such a way unless he believed that he had the full backing of his sponsoring ministers in taking that action. It now appears that despite failing to mention it in his statement to the Parliament on 3 June or his answers to the many questions on that statement, Mr Mather was informed about the decision to dismiss Philip Riddle on 22 April. Apparently, he was too busy mind mapping Dr Cantlay to take notice.

Several questions remain unanswered. Why did Mr Mather not think that he should bring the matter to the attention of the Cabinet Secretary for Finance and Sustainable Growth? Why did the sponsoring department fail to inform ministers that it was in discussions with VisitScotland on how to go about dismissing the chief executive? What exactly is the new, significant and urgent strategic direction for VisitScotland? The tourism industry needs to know. If there are to be significant changes to the strategy and to what VisitScotland does, tourism businesses need to know what those changes will be. Decisions were apparently taken by Mike Cantlay within 22 days of his being appointed as the chair and before the first meeting of his board. Surely the tourism industry needs to be involved and should not be kept in the dark, which is where we all are at present.

I will leave the rates issue primarily to my colleague Jeremy Purvis. Suffice it to say that the list of those who support a transitional relief scheme is growing daily. It includes not just the many individual businesses that are being stung

by crippling increases but organisations such as the British Hospitality Association, the chambers of commerce and even the Confederation of British Industry. Indeed, it seems that the only people who support the Scottish National Party Government's position are Conservative members of the Scottish Parliament.

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Where are they?

**The Presiding Officer:** Order.

**Iain Smith:** I conclude with a brief comment on the gathering. The Auditor General for Scotland's report on the gathering was published the day after we lodged our motion, so we could not refer to it in the motion as we had not seen it at that point. However, I am sure that the 103 private sector organisations that are owed a total of more than £300,000 by The Gathering 2009 Ltd will be as shocked as I am by the cavalier way in which the Scottish Government appears to have thrown public money at the event. The Audit Scotland report shows that ministers did not complete robust checks of the company's ability to repay the loan or even seek information from other bodies on the steering group.

Ministers have a duty to come to the chamber and fully explain their actions, given that £180,000 of public money was given as an interest-free loan to a company that was, even at the time, clearly not going to achieve the financial objectives that it had set itself. That is unsatisfactory. It is not how public money should be spent. Irrespective of whether the gathering was an important event, ministers have a duty to safeguard the public purse. They failed to fulfil that duty, and they must come to the chamber to explain their actions.

I move,

That the Parliament notes that tourism is among the largest contributors to the Scottish economy and is defined as a key sector; believes that the industry needs clear direction and support in order to achieve sustainable, long-term growth; deeply regrets the current crisis at the head of VisitScotland over the role of the chief executive and the lack of clarity over ministerial involvement; further notes that the hospitality and tourism sectors have been particularly affected by higher rates bills following revaluation and that Scottish businesses are almost alone in the United Kingdom in having to face these massive increases; notes the British Hospitality Association Scotland, CBI and Chambers of Commerce criticisms of the lack of a transitional rates relief scheme, and calls on the Scottish Government to work constructively with these and other business organisations across Scotland to agree and deliver such a scheme.

09:21

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** The Lib Dem motion states:

"the industry needs clear direction and support in order to achieve sustainable, long-term growth".

That is exactly what is being delivered. Increasingly, it is coming from inside the industry, with VisitScotland, EventScotland and the Government bringing the industry together in the shape of the Scottish Tourism Forum and the tourism framework for change leadership group, and with the appointment of a new chair for VisitScotland and a highly motivated, aligned and experienced board that has, in turn, attracted support and enthusiasm from an increasingly vocal and proactive group within the industry.

The new board is building on a sound transitional legacy and encouraging new, innovative approaches to destination management. VisitScotland is working with a management team that has delivered a mature alliance that includes the industry, economic development and other bodies, and the Government. Scottish Enterprise is delivering lots of valuable material in the shape of its "Listening to our Visitors" destination guides, and tourism intelligence Scotland is producing insightful documents on how to get the job done more effectively. The Scottish local authorities economic development group is heavily involved and is working collaboratively.

Everyone is coming together in the homecoming legacy. Creative Scotland, Scottish Natural Heritage, Historic Scotland and others are working together to ensure that the world-class offering that is Scotland—in terms of authenticity, attractions, assets, agile marketing and aspirations to improve quality—is all there. The homecoming legacy is now gaining immense traction. With the focus years of food and drink from 2010 through to May of next year, active Scotland in 2011, culture and creativity in 2012, natural Scotland in 2013 and homecoming again in 2014, we are building a real repertoire. No wonder that is bearing fruit in our latest results, with tourism up 2.7 per cent in 2009 against a global drop of 4 per cent.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** We share the view that the industry should be commended for its success.

VisitScotland's strategic direction was set by the Government in September 2007 with the review of the enterprise networks. If that strategic direction was so successful, why does the chair of the organisation believe that it needs to change, and what is the proposed change, which the Government now seems to support?

**Jim Mather:** Having appointed a board, we choose not to second-guess it. We work with the board and we see the bigger picture. In the Liberal Democrats, we have a party that will condemn what we do and condemn what we do not do.

VisitScotland is working and functioning well, moving forward, building on the strengths and looking to attract more visitors to Scotland.

**Iain Smith:** Will the minister take an intervention.

**Jim Mather:** No. I have taken one intervention already. I have six minutes, only three of which are left.

The issue is a political party that is willing to create a sense of uncertainty and make a mountain out of a molehill. This is an operational matter for VisitScotland. I was informed by Mike Cantlay that he was in dialogue with Philip Riddle about Mr Riddle's future, but it was recognised that that could include Mr Riddle remaining in post.

The crisis and the chaos are a figment of Lib Dem imagination. Meanwhile, we are dealing with the reality and are looking to move forward constructively, including handling the issue of businesses that have been affected by the rates revaluation. We will roll up our sleeves in this Government to work with those that have been impacted to ensure that their excellent properties gain the maximum amount of leverage. We will bring together VisitScotland and all the other agencies and allies to maximise that. Meanwhile, we are in a maelstrom of further misinformation from the Lib Dems, which ignores the fact that in the revaluation process the rate poundage went down by 15 per cent and that Scotland is delivering—

**Mike Rumbles:** On a point of order, Presiding Officer.

**The Presiding Officer:** Minister, I am afraid that I have to take a point of order from Mike Rumbles.

**Mike Rumbles:** I am having difficulty understanding the English that Mr Mather is using. I wonder whether you could use your good offices to ask him to explain in plain English what he means to do.

**The Presiding Officer:** Your understanding of what the minister says is not my problem, Mr Rumbles.

**Jim Mather:** I am grateful to have a native speaker in the audience.

I put it this way to Mr Rumbles: we are putting in £2.4 billion in relief over the next five years. The 60 per cent of businesses that are benefiting from the moves that we have made in Scotland are benefiting to the tune of £1,300 each compared with £600 or £700 for equivalent businesses in England, and the transitional relief in England mainly benefits London. We made those moves instead of providing transitional relief that would have hit businesses to the tune of £77 million, meaning that eight out of 10 rate payers—63 per

cent of them hotels—would have been worse off or no better off, which would have been a major issue.

I will further develop that point as I move, in my closing remarks, to address how we intend, as never before, to help those who have been affected to earn their way to better outcomes and to make the most of their assets and attributes, and essentially create a situation in which VisitScotland, together with all the other allies—Scottish Natural Heritage, Historic Scotland, Creative Scotland and our local authorities—build on our ability to get to a better position, taking advantage of current exchange rates—

**Iain Smith:** Will the minister give way?

**Jim Mather:** I have about 24 seconds left.

**Iain Smith:** I hope that the minister will use them on the gathering.

**Jim Mather:** I am happy to mention the gathering. We have seen the bigger picture and engaged constructively with Audit Scotland, and we will consider its recommendations carefully. I remind Parliament that The Gathering 2009 Ltd is a private company and that we ensured that the event was the success that it was in respect of the totality of Scotland: it generated £10.4 million for Scotland's economy—£8.8 million of that in Edinburgh—attracted visitors from across the world and helped to broadcast across the world what a great location Scotland is.

I move amendment S3M-6635.1, to leave out from "deeply regrets" to end and insert:

"welcomes the initiative of the industry to establish the Tourism Leadership Group as a positive step in working collaboratively toward growth and prosperity, and notes that extending the small business bonus scheme will mean that half of all businesses, including many tourism-related businesses, will receive a discounted bill this year and well over a quarter of business properties will pay no rates at all and that the introduction of a transitional relief scheme would increase taxes for small and medium-sized private companies by £77 million, meaning that eight out of 10 rate payers, including many in the tourism and hospitality industry, would be worse or no better off, which would be extremely damaging for Scotland in this period of fragile economic recovery."

**The Presiding Officer:** I am slightly relaxed about time this morning, as we have a little in hand.

09:28

**Gavin Brown (Lothians) (Con):** The Liberal Democrats were right to choose tourism as a subject for debate. As Iain Smith pointed out, it is critical to Scotland.

**Jeremy Purvis:** So critical that none of your colleagues is in the chamber.

**Gavin Brown:** There is one MSP from the Conservatives versus 12 from the Liberal Democrats—we wanted a fair fight, and it would have been grossly unfair if I had brought along Derek Brownlee to assist this morning. We are happy to take on 12 Liberal Democrats and the four Liberal Democrats who could not be bothered to show up for Liberal Democrat business.

**David Whitton (Strathkelvin and Bearsden) (Lab):** I should warn the Liberal Democrats that Gavin Brown has a black belt in tae kwon do.

**Gavin Brown:** I do not have a clever quip in response to that comment, so I will carry on.

Tourism is a critical subject, but the way in which the Liberal Democrats have tackled it is pretty disappointing.

We face a long-term issue with tourism in this country. In 2005, under the previous Government, the tourism framework for change was set up, which involved the Government and the industry. It set an ambition of 50 per cent growth over a 10-year period. In 2010, halfway through that period, we have not seen any movement, so there is an issue, which requires all political parties, the industry and Government, in particular, to get our heads together and figure out how we achieve that step change in tourism. There is probably agreement across the chamber on that.

The Liberal Democrats have chosen to focus on two unrelated specific issues pertaining to tourism, I think in an attempt to narrow the debate. Let me deal with those two issues.

**Jeremy Purvis:** What about your amendment?

**Gavin Brown:** My amendment is about furnished holiday lettings, the measure on which was, until the news about the gathering came out yesterday, probably the biggest tourism story of the week. The Conservative and Liberal Democrat Government introduced that measure, but the Liberal Democrats could not be bothered to mention the good news for Scotland in their own motion.

I turn to the two points that the Liberal Democrats have raised. I am happy to say on the record, as I have said both privately and publicly before, that I do not think that the Government has handled the issue at VisitScotland particularly well. The decision was strange. I formed the impression, from evidence that was given to the Economy, Energy and Tourism Committee, that the chief executive was doing a good job—he came across very well. In relation to the Government's narrative on tourism, it was a strange decision. However, Mr Smith has described the situation as a crisis in tourism, which is plain wrong. Leaders in the tourism industry and people throughout Scotland will be slightly

confused about Mr Smith describing the situation as a crisis.

**Mike Rumbles:** Will the member take an intervention on that point?

**Gavin Brown:** I am always happy to take an intervention from Mr Rumbles.

**Mike Rumbles:** I can tell Mr Brown that what is a crisis in my constituency is the situation for Ballater Business Association, as highlighted by Aberdeen and Grampian Chamber of Commerce. Many of my constituents are facing huge business rates rises, which the Conservatives had the opportunity to change, yet Mr Brown voted against business rates relief for members of business associations in Ballater in my constituency and across Scotland.

**Gavin Brown:** Mr Rumbles describes the revaluation as a crisis, so by definition he does not agree with his own front bench that the position at VisitScotland is a crisis for the industry.

On Mr Rumbles's point about revaluation, the crux of the matter is that, if there were to be a transitional relief scheme, there would have to be a change in Government policy. That would mean one of two things, because there are only two ways to do it. It would be necessary either to take back money from the smaller industries in Scotland that gained from the revaluation—I wonder whether the Liberal Democrats are proposing to claw back money from the 60 per cent of businesses that gained—or to find the money to cover the cost of a transitional relief scheme. The Government described the cost as being £195 million. I have no view on the veracity of that figure, but I have not heard anyone else challenge it.

When the Liberal Democrats decided that there ought to be a scheme, they said that it should come from Barnett consequentials. The slight problem with their argument—as they well know—is that those Barnett consequentials were allocated to affordable housing, and every single Liberal Democrat in the chamber welcomed that expenditure. I look forward to hearing what Mr Purvis has to say on revaluation. I hope that he has a new idea and that the Liberal Democrats are not just rehashing their old ideas.

I move amendment S3M-6635.1.1, to insert at end:

“, and welcomes the UK Government's decision not to repeal the special tax rules for furnished holiday lettings, as had been proposed by the previous administration led by Labour.”

09:34

**Lewis Macdonald (Aberdeen Central) (Lab):** A common theme to many of the big issues that



have been raised in this debate is the need for greater transparency in the Scottish Government's approach to many issues that affect the sector. The shocking treatment of a loyal and successful public servant has already, rightly, been raised in the chamber and at the Economy, Energy and Tourism Committee. The Government and the recently appointed chairman of VisitScotland still have many questions to answer on that topic.

The final questions that committee members asked of Philip Riddle when he was chief executive of VisitScotland were about another topic that is of huge concern to many people in the tourism sector: the Scottish Government's decision to provide no transitional relief to hotels that have been hit by huge increases in business rates. Mr Riddle told the committee on 28 April that John Swinney had not consulted VisitScotland before making his decision to scrap transitional relief. He said that VisitScotland had been given the opportunity to provide feedback after the event and that he had taken the opportunity to make representations through Mr Mather.

Philip Riddle has not had the opportunity to tell us the outcome of the representations that he made. The chairman of VisitScotland, who gave evidence to the committee last week, did not acknowledge that such representations had been made when Marilyn Livingstone asked him about business rates. Perhaps the minister will tell us about the evidence that VisitScotland presented to him when it was still led by someone who was willing and able to reflect the concerns of the overwhelming majority of businesses in the hospitality sector.

It is pretty clear that ministers did not engage in consultation of any form with representatives of Scottish business, any more than they did with Government agencies such as VisitScotland. The price of ministers' secret decision to scrap transitional relief is being paid by businesses throughout Scotland.

John Swinney has subsequently met representatives of chambers of commerce—as I understand it, from Dundee and Edinburgh, as well as Aberdeen—and I understand that he will meet a delegation from the Scottish Chambers of Commerce on Monday 28 June. However, he has made no concessions that would address the concerns that have been expressed. The view of the Aberdeen and Grampian Chamber of Commerce delegation, which was made public this week, is that

“the Minister has either not understood or not accepted the weight of evidence”

that it presented.

I remind Mr Mather of what the delegation said to Mr Swinney. It told him that the rates paid this

year by businesses in Aberdeen city and Aberdeenshire have increased by more than £30 million, which represents a 15 per cent increase in income to the Scottish Government from businesses in that region alone. Research by Ryden into the liability of 189 hotels and guest houses in the north-east shows a 33 per cent increase in rates payable—that is the increase in rates, not valuations. Analysis by Aberdeen City and Shire Hotels Association shows that its members face an increase of more than 40 per cent in rates payable. As the Aberdeen and Grampian Chamber of Commerce told John Swinney again this week, the association's view is that

“This will undoubtedly lead to some businesses closing or a reduction in the levels of service through having to reduce staffing levels in order to pay the additional rates.”

Those are not idle words, and this is not simply a debating point. We are talking about real jobs and businesses in the tourism sector.

I know that ministers mean it when they say that they want the sector to grow. It might well be, as Aberdeen and Grampian Chamber of Commerce thinks, that ministers have miscalculated the overall increase in income to the Government from the increase in business rates. Ministers might well have underestimated the number of small firms that would cease to qualify for small business rates relief, through the revaluation of their premises taking them above the threshold, as Iain Gray said to the First Minister a couple of weeks ago.

If ministers have miscalculated in that way, there might be room for them to introduce some degree of transitional relief—if they are willing to look again at the evidence and take the right decision. That is what tourism businesses are asking ministers to do. That is no doubt what Philip Riddle put to Jim Mather and it is no doubt what the Scottish Chambers of Commerce will put to John Swinney next week. It is the single most important thing that ministers can do to address the competitive disadvantage that Scottish tourism faces. I hope that ministers will listen to the representations and act accordingly.

I move amendment S3M-6635.2, to insert at end:

“; regrets that the combination of increased business rates and increased VAT will put Scotland's tourism industry at a competitive disadvantage, and believes therefore that there is even greater need for the Scottish Government to adopt an approach based on greater transparency and accountability, learning the lessons of the Auditor General's report on the Gathering as well as other recent events, and to give renewed emphasis to training and skills”.

09:39

**Marilyn Livingstone (Kirkcaldy) (Lab):** I am pleased to contribute to the debate and to help to outline what the tourism industry needs from the Scottish Government to ensure that it plays a significant role in Scotland's economy.

The most recent parliamentary debate on tourism took place in March. Many important issues that relate to the industry need to be addressed, such as local initiatives, which the Government must support; skills and training in the sector; business rates in the hospitality industry, which I have talked about on numerous occasions; and the need for transparency and leadership, particularly with regard to strategic direction.

My area, Fife, is a successful tourism destination, as Iain Smith said, whose appeal lies in its natural environment, particularly its award-winning coastline. Fife's strong reputation for golf attracts visitors from international markets and elevates the area to its position as one of Scotland's international destinations. The industry contributes more than £200 million a year to the local economy and supports more than 12,000 jobs—that represents 9 per cent of the workforce. Tourism is an important and growing sector in Fife.

If we are to achieve the national growth target of at least 50 per cent, tourism in Fife must grow from a £218 million industry to one that is worth £327 million per annum by 2015. That is a significant challenge, which the Scottish Government must help the newly formed Fife tourism partnership to achieve. If Fife is to meet the target and take advantage of tourism opportunities, such as the proposed hovercraft service from Kirkcaldy to Edinburgh and the potential for cafe culture along Kirkcaldy's promenade, the Scottish Government must work to eliminate barriers to investment.

The minister will not be surprised that I want to talk about education, skills and training in the hospitality and tourism sector. The industry's view is that the current system is failing. The Scottish Government must take urgent action. The further and higher education sectors have come under financial pressure and practical training has become a major challenge. I strongly urge the Scottish Government to ensure that the tourism industry is given its fair share of the 5,000 modern apprenticeships in five key sectors that the Government will announce during the coming weeks. The Scottish Government previously abandoned adult modern apprenticeships in tourism. That cannot be allowed to happen again. Such an approach would be nonsense and would deny people over 19 the opportunity to work in and bring much-needed expertise to one of Scotland's key sectors.

The Scottish Government has dropped a rates bombshell on the sector, as Lewis Macdonald said. The industry has been hit hard and at short notice with significant increases in bills. Many businesses in the hospitality sector in Scotland face staggering increases of between 100 and 400 per cent. The hotel and hospitality industry has been badly affected. Most other businesses are valued on assessment of their premises' notional rent value, but hotels are valued on turnover.

With government comes responsibility. The Government must not compensate for its unsustainable funding decisions by penalising the tourism industry with huge rates bills. The approach has put the sector at a huge disadvantage compared with its competitors in England, who were told months ago what their rates would be and have the benefit of transitional relief and a phased-in increase.

The tourism sector faces difficult economic circumstances. Many people are choosing not to go on holiday, because of the cost.

**Jim Mather:** If Marilyn Livingstone thinks that transitional relief should be provided, will she explain how we could have unleashed a cost of £77 million on small businesses at such a crucial time in Scotland's recovery?

**Marilyn Livingstone:** With government comes responsibility, as I said. The Government has made unsustainable funding decisions.

The increase in rates for hotels and restaurants will lead to job losses and force many small businesses out of business. Hotels, restaurants and other businesses in the hospitality industry make a valuable contribution and must not be punished for their success. Like Lewis Macdonald, I urge the Scottish Government to revisit the situation and introduce a system of transitional rates relief.

Scotland depends on tourism to generate investment. In difficult times for the sector, local tourism businesses need openness and transparency from the Government and VisitScotland, which is the national organisation that provides strategic direction for the industry.

The uncertainty over VisitScotland's chief executive and the board's confidence in Philip Riddle undermines the hard work that is being done to promote tourism in regions such as Fife and creates a leadership vacuum. When giving evidence to the Economy, Energy and Tourism Committee, Dr Mike Cantlay confirmed that the board unanimously agreed on the change in strategic direction. However, the change was made without consulting the Minister for Enterprise, Energy and Tourism, the Cabinet Secretary for Finance and Sustainable Growth, the committee or anyone. The speed and the secrecy

with which the decision was made without informing the Scottish Government or holding discussions with the Parliament are cause for great concern and undermine VisitScotland's role in guiding our local tourism industries. The minister needs to answer that point.

The Scottish Government must commit to working with the industry during and beyond the current uncertainty, improve the provision of much-needed skills and encourage investment in tourism at a local level. More important, the minister must look at business rates and show confidence in and support for the sector by providing the necessary investment, and show leadership, openness and transparency in government.

09:46

**Rob Gibson (Highlands and Islands) (SNP):** The danger of this debate is that there has been so much hyperbole and such a lack of evidence from across the country that, if some facts are not injected into it, the picture that we will glean will be skewed.

Let us look at business rates. An additional 3,600 Scottish business properties are eligible for relief during these challenging times. Many independent hotels, bed and breakfasts, guest houses and self-catering properties qualify for the small business bonus scheme. In addition, the thresholds for the targeted rural relief that supports key services in rural communities, including hotels, have been uplifted. That relief offers many hotels bill reductions of up to 100 per cent. We need to see a whole-Scotland picture before we can decide whether the charges in relation to the north-east of Scotland, or wherever, stand.

Valuations reflect room rates, occupancy levels, and sales of food and alcohol. Overall sector rises are due to properties with increased occupancy and higher turnover. The impact varies because of location, hotel type and turnover that has changed since the last revaluation in 2005. I note that the Liberals said that only Tory MSPs would support the SNP's position, but the Federation of Small Businesses, the Scottish Grocers Federation and the CBI supported the Government's position in February. I inject those facts into the debate during the short time that I have available.

On 10 February, the CBI said:

"There are a number of welcome measures on non-domestic rates in this announcement, such as the enhanced rates relief for small and rural businesses and new relief to encourage renewable energy generation",

among other things in which businesses in the countryside can take part.

**Lewis Macdonald:** Will the member take an intervention?

**Rob Gibson:** I do not have the time; I am sorry.

The previous speaker raised the issue of skills. It is a fact that investment is being made. The Burghfield House hotel school in Dornoch, which the Cabinet will visit this summer, is training more chefs and hotel staff. People 1<sup>st</sup> and the Scottish Tourism Forum say that it is still difficult to recruit trained chefs; 37 per cent of businesses that recruited chefs in 2009 found vacancies difficult to fill. However, colleges such as North Highland College have set up schools to do that training.

**Marilyn Livingstone:** Will the member give way?

**Rob Gibson:** No, I will not.

Members should recognise that such initiatives should be taken in other places, which might fill the gap. It is not down to whether the Government provides money for apprenticeships. Colleges are doing the work, and members should listen to the facts.

On rates relief, have the Liberals or anyone else asked about the basis on which that is calculated? Are we going to have a debate about the realities and whether we need to change the way in which that happens? That is my personal view, but some members need to reflect on it.

On the gathering, did the Liberal-Labour Executive look at the business case of the private company that set up the operation in the first place? The Government of the time dealt with that company as if it were a private company and took a hands-off approach. Now the members of that previous Government accuse the current Government of doing the same thing. Frankly, that is two-faced.

On the leadership changes at VisitScotland, yes, there has been a change of chair, and the board has assessed the way forward. Mike Cantlay called it a step change. I quote the wise words of my colleague Chris Harvie, who, after attempts to implicate John Swinney in the micro-management of VisitScotland, said:

"I understand the separation of notions of personnel from notions of policy, and I am aware that your position, cabinet secretary, is bound by the need to distinguish between the two and that the two should not be allowed to be confused by ministerial intervention at an inappropriate time."—*[Official Report, Economy, Energy and Tourism Committee, 16 June 2010; c 3834.]*

That is not about taking a hands-off approach; it is about respecting the fact that VisitScotland is a non-parliamentary group and allowing it to measure its activities.

We have had a dose of gripe from those who proposed today's motion; it is time that we had a dose of common sense.

09:51

**David Whitton (Strathkelvin and Bearsden) (Lab):** I am pleased to take part in the debate and to support the Labour amendment.

"Our plans do not require a rise in VAT. The Tory plans do."

Those are not my words; they were said by the Liberal leader, Nick Clegg, in April, when he was on a flying visit to Glasgow—it was certainly not a staycation—to launch what his party thought was a clever poster under the heading of "Tory VAT bombshell". The Conservatives' response came from George Osborne, who said:

"We have no plans to increase VAT."

Well, now we know the truth. Those leading figures in the Con-Dem Government were misleading the public. Will Mr Smith and Mr Purvis now defend the indefensible? According to today's *Scotsman*, there seems to be muted support for a VAT rise among their colleagues. In typical Liberal fashion, Robert Brown and Ross Finnie are not saying; apparently, Hugh O'Donnell has no views; and Mike Pringle does not think that it is an issue—he must have missed the poster launch in Glasgow, then. Only Liam McArthur is honest enough to admit that it was not something that he had campaigned for—and no wonder. It is no use the Liberals moaning about changes at the top of VisitScotland or the SNP's decision to not introduce a transitional rates relief scheme when their Westminster colleagues have so blatantly broken a pre-election promise and, at the same time, delivered a hammer blow to the tourism industry. Make no mistake: increasing VAT to 20 per cent is as devastating to an industry that relies on customer choice as the damage that is done by excessive rates rises. Perhaps Mr Purvis can enlighten us about what his Borders hotel owners think of the VAT rise, and what the effect will be on jobs.

**Jeremy Purvis:** I am delighted to be able to say that I spoke to the manager of the Tontine hotel in Peebles last night. She said that she is not concerned about the VAT rise and that the biggest impact on her staff would come from the lifting of the income tax threshold, which would be the best bonus for the industry.

The previous Labour Government regularly used PricewaterhouseCoopers for consultancy. The hospitality director at that consultancy firm described the VAT increase as having "little or no impact" on demand in the hospitality sector. That is not exactly a "hammer blow".

**David Whitton:** Mr Purvis will find that time alone will tell. Tavish Scott apparently believes that the Liberals got good things out of the budget. Really? He must believe that the loss of up to 100,000 jobs is a price worth paying, just as the Conservatives do.

The Liberals and the Conservatives should take a lesson from Europe. While our coalition Government at Westminster is busy making it more expensive for tourists to come here, across the continent, VAT rates are coming down in a bid to attract visitors for value-for-money holidays. France lowered VAT for restaurants from 19.6 per cent to 5.5 per cent, and Germany announced a cut in VAT on accommodation from 19 per cent to 7 per cent last January. A comparison of VAT rates in top competitor tourist destinations such as France, Spain, Italy, the United States and Australia shows that, on average, visitors to Scotland pay about 10 per cent more for accommodation and restaurants and 3.5 per cent more for entry to attractions and other venues. The rise in VAT to 20 per cent puts Scottish tourism at a clear disadvantage in a competitive global market.

"If you look at the effect of a sales tax, it's very regressive, it hits the poorest hardest. It does, I absolutely promise you."

Again, not my words but those of the Prime Minister, David Cameron.

Tourism should be one of our major growth industries. Events such as the Commonwealth games in Glasgow, the Ryder cup at Gleneagles and the Olympic and Paralympic games in London will provide the sector with its largest opportunity to market itself on a world stage, but the VAT increase will hit them, too.

How do we capitalise on that potential when we all know that Scotland's tourism and hospitality sectors are facing a massive skills shortage, which Marilyn Livingstone highlighted? The issue was also highlighted by Iain Herbert, chief executive of the Scottish Tourism Forum, who says that the industry will face a skills shortage of 80,000 by 2017.

How do we make our tourism businesses more attractive to potential employees and better at retaining staff? People 1<sup>st</sup>—the sector skills council for the tourism industry—argues that we need to continue to focus on improving skills in the three priority areas of management and leadership, customer service and chef skills. I say to Mr Gibson that we will improve chef skills if we reintroduce modern apprenticeship places for those aged over 19, because it tends to be older people who want to get into that area.

Most of all, we need clear direction from VisitScotland and the Scottish Government.

Instead of the secrecy surrounding the removal of Philip Riddle and funding to a loss-making venture such as the gathering, the minister needs to focus on how he can support this vital industry. Despite all the obstacles that are being put in its way, tourism can still be a winner for Scotland and a provider of good, well-paid jobs.

09:56

**Joe FitzPatrick (Dundee West) (SNP):** Today's debate is an opportunity to set the record straight. From reading the motion, one would be forgiven for thinking that the tourism sector in Scotland was in disarray. Of course, that is far from the truth. In the midst of a recession, our tourism industry has just had an extremely successful year. In a year in which tourism was down by 4 per cent, Scotland was the only country in the United Kingdom to show growth in international trips, with a 25 per cent increase in visits from North America and a 43 per cent increase in visitors from outwith North America and Europe over the summer months.

The year of homecoming generated more than £50 million of additional revenue and attracted almost 100,000 additional visitors to Scotland—by anyone's standards, that is a success of which the whole Parliament can be proud. David Smythe, chairman of the Association of Scotland's Self-Caterers, perhaps best summed up the situation for the tourism industry when he stated:

"In an economically tricky year we were very fortunate to have Homecoming. The Programme of events and the marketing of the celebrations helped promote Scotland as a must visit destination in 2009."

The Scottish Government is committed to growing the tourism sector in Scotland, and the announcement of the second year of homecoming was welcomed by businesses throughout Scotland. Homecoming 2014 will take place in the year that Scotland hosts the Commonwealth games and the Ryder cup and marks the 700<sup>th</sup> anniversary of the battle of Bannockburn.

The second year of homecoming is also the target year for the opening of the Victoria and Albert museum Dundee on the waterfront in my constituency, which will put Dundee at the heart of the celebrations. It is hoped that we can replicate some of the success that Bilbao has enjoyed with the Guggenheim museum. The Scottish Government's enthusiastic support has been key to driving the project forward to ensure that we create a truly iconic building on—or perhaps in—the Tay. In order to do that, a global competition to design the museum was launched and a shortlist of six companies has been drawn up. Global interest has been stirred by the design competition and six of the world's leading architectural practices, which have designed some of the most iconic modern buildings around the world, are

bidding to take on the work. Although those companies are from across the world, they have managed to tap into the huge talent that exists in Scotland. Every single one of them is using a lot of their manpower to bring forward their designs in Scotland and across the UK, which is to be welcomed at this time of recession.

**Jeremy Purvis:** I endorse and commend the member's enthusiasm for tourism in his area. However, the new chairman of VisitScotland has said that there needs to be a change of strategic direction for both VisitScotland and the industry. We simply do not know what that change of direction should be. What does the member believe it should be?

**Joe FitzPatrick:** We need to have a strategy that drives tourism forward. It is bizarre that the Liberal Democrats are saying, on the one hand, that everything is terrible so we need change and, on the other hand, that we do not need change. At the end of the day, what we have from the Liberal Democrats is a motion that talks down our industry and Scotland. We hear far too much of that.

I will return to the benefits that tourism has for Scotland and for my city in particular. The V and A in Dundee will grow and support tourism in the area. It is estimated that it will bring 130,000 visitors to Dundee every year, which will be a huge boost to the Scottish economy as well as to Dundee's economy. It will tie into the other cultural centres of Aberdeen, Edinburgh and Glasgow and will really make Scotland a global cultural place to visit. I hope that everybody in the chamber will support that. I certainly have not heard any voices speak against it, which is a good thing.

I understand why some businesses have taken issue with the business rates revaluation, because nobody wants to pay more tax, but the revaluation is carried out by an independent assessor. To fail to implement its recommendations or to introduce transitional relief would mean that many businesses would be forced to pay more than they should. Transitional relief would work both ways: it would mean that businesses that have been assessed as paying too much would continue to pay too much, which cannot be right. We would force businesses to pay more than the independent assessor has stated they should pay. No member should be in any doubt that, by ensuring that the overall package of rates relief to businesses in the tourism sector is more generous than in any other part of the UK and by investing in projects such as the V and A in Dundee and homecoming 2009 and 2014, the Scottish Government is committed to and delivering for the tourism sector in Scotland.

10:01

**Sarah Boyack (Edinburgh Central) (Lab):** It is clear from the debate that the Scottish Government needs to do better on tourism. It is not the industry but the Government's strategy that is in crisis. Tourism is hugely important to us, as colleague after colleague has stressed this morning.

For us in Edinburgh, tourism is one of our biggest industries. We are one of Europe's most popular destinations, but we cannot afford to rest on our laurels. That is why the lessons of the gathering have to be learnt. I asked the Auditor General for Scotland to intervene and investigate last year because I was deeply disturbed by the lack of transparency in the dealings around the event, the huge cost overruns and the damage done to businesses locally. It required a series of parliamentary questions and freedom of information requests to unearth exactly what happened.

As a result of yesterday's report, we now know that the Scottish Government knew that the gathering was in trouble when it approved a secret loan to keep it afloat. That loan became a write-off. It is clear that the Scottish Government tested neither the viability nor the robustness of the business case offered by the gathering organisers. It is now also clear that the First Minister personally engaged in a round of phone calls to try to offload the company, desperately trying to persuade somebody to take the company on and save the Scottish Government's face.

The Auditor General's report is damning because it identifies a lack of due process, which is fundamental in a democracy. Moreover, the Scottish Government and the City of Edinburgh Council did not have a full understanding of the position before they released information last year about the future of the company, which is absolutely galling for the 103 local businesses that were misled by those statements. They were left by the Scottish Government to fend for themselves and they found out this week that another company that has the organiser of the gathering, Lord Sempill, at its helm and which was given a loan by the Scottish Government has resurfaced to start trading again. Where is the fair treatment for private businesses?

The Auditor General is clear that lessons have to be learnt. Due diligence, clear expectations and performance indicators need to be agreed when large sums of money are being handed out. Our tourism industry deserves better. The Auditor General's report shows us what went wrong with the gathering, a key part of homecoming, but it does not explain why the Cabinet Secretary for Education and Lifelong Learning, Mike Russell, and his boss, the First Minister, acted in such a

cavalier fashion. That is important, because there are still questions to answer. I was astonished that the minister could not bring himself to apologise for the handling of the debacle. He only got round to mentioning the gathering when Iain Smith challenged him about it in the last 15 seconds of his speech.

Things are not getting easier for local businesses, because, as many colleagues have suggested, business rates are up. Hotels in Edinburgh are hit by an average of 20 per cent and cafes and shops, which are vital to our tourism industry, are also hit. When Edinburgh Chamber of Commerce and I met John Swinney, he made sympathetic noises about tax increment finance and the specific need to avoid inconsistent decisions on individual rates bills, but he did not offer any comfort on transitional relief.

SNP members, including Rob Gibson in particular, have asked for reality. The point that the minister made ignores the extra cash that the SNP Government has taken in through revaluation this year. He needs to address the point made by the Scottish Chambers of Commerce, which thinks that the figure of £60 million—the sum given in response to parliamentary questions—could be higher.

The timing of the revaluation was crucial: it happened when business was good and the values of the properties were significantly higher than they are now. Therefore, businesses face a double whammy: they are hit by rates revaluation at a point when the value of their property has plummeted, and the value of their business is not as good as it was, which means that their rates valuations are inflated. That has pushed up costs for business throughout the city. The Government is not making it easy for companies that are trying to deal with the Salmond slump.

**The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson):** It is a Labour slump.

**Sarah Boyack:** There is a differential impact in Scotland, as the Government's own figures show.

Edinburgh is now a global destination, but it has taken years of work to build us up to that. We cannot be complacent, and the last thing that we need is an incompetent approach. We need only consider what is happening locally: we are reaching the anniversary of the beginning of the waste dispute in the city—it is astonishing that it has not been settled a year on. The price is overflowing bins and rubbish in the streets for tourists to see. It is not good enough.

We need more competent, engaged leadership, nationally and locally. Edinburgh is one of Europe's most popular destinations but there is a global recession, so everybody has to work

harder. That is why it is even more important that VisitScotland has a clear focus and the Scottish Government takes clear action not only to help generate tourist visits but to help the industry survive really difficult times.

10:06

**Gavin Brown:** It has been an interesting debate. Over the course of it, we have covered a number of issues, a few of which I will pick up on.

I will start with the subject of my amendment: the decision on the tax rules for furnished holiday lettings, which is good news for about 5,000 or so lettings throughout Scotland, many of which are in the Highlands or the south of Scotland.

Paragraph 2.85 on page 51 of the budget document says:

"The proposal inherited by the Government to repeal the special tax rules for furnished holiday lettings will not be implemented."

The industry has been lobbying for that for some time. Unfortunately, that lobbying fell on deaf ears in the previous Labour Administration, which cited European regulations, saying that they outlawed the position, and simply refused to listen to the cogent arguments that the industry advanced.

I am pleased to say that the lobbying on behalf of the industry has achieved a successful result. There are still European regulations to work our way around but there is political will to do that, and the coalition Government in the United Kingdom will pursue the matter, which will help our industry in Scotland, as well as tourism elsewhere in the UK.

There were some interesting speeches. I will touch on one or two important ones.

Lewis Macdonald for the Labour Party argued well and advanced various pieces of evidence for a good case. However, it is one thing for the Labour Party and the Liberal Democrats to argue for a transitional rates relief scheme, but how could such a scheme be implemented? As I said in my opening speech, either money must be clawed back from the businesses that gained from the rates revaluation—about 60 per cent gained, and they are, in general, smaller businesses—or it must be paid for out of Government revenue. We have not heard from any party how it would be implemented. Mr Macdonald made a good case but, without a solution, a scheme cannot be implemented.

Lewis Macdonald also said that tourism businesses were demanding change. Some are, of course. He cited the Aberdeen Hotels Association, but hotels are not the only tourism businesses. The vast majority of our tourism businesses are extremely small businesses, many

of which gained from the rates revaluation and are not arguing for any changes or for transitional relief. If somebody argues for transitional relief, they must say how it ought to be implemented.

**Jeremy Purvis:** Gavin Brown knows that, since last summer, I and other members have been raising the issue of the lack of consultation with the business community on transitional relief. Is he, in principle, in favour of transitional relief? If so, why has he supported the Government since last summer, given the figures that it has provided?

**Gavin Brown:** I have no principled objection to a transitional relief scheme; it is a matter of practicality. Until a practical solution is put on the table, transitional relief is simply on the wish list from the Liberal Democrats and the Labour Party.

**Jeremy Purvis:** It was last summer.

**Gavin Brown:** By "last summer", I think that Jeremy Purvis probably means March, which was about a month before the election.

**Jeremy Purvis:** No, it was last year.

**Gavin Brown:** Mr Purvis is due to speak at the end of the debate. Why does he not use that opportunity to say how a transitional relief scheme ought to be implemented to try to get members behind his proposition?

10:10

**Lewis Macdonald:** The Labour amendment highlights a number of matters, but I will draw attention to two in particular in my closing speech. One is the need for openness and transparency from the Government and its agencies in dealing with the tourism sector and the issues that affect it. The second is the need for the Scottish Government to address the competitive disadvantage that Scottish tourism businesses will face.

The decisions on VAT clearly affect tourism businesses throughout the UK. However, the decisions on transitional relief are a specifically Scottish problem. The Conservative-Liberal Administration at Westminster has inherited from Labour a transitional relief scheme that caps at 12.5 per cent the impact of rates revaluation on any business in any one year. It is essential that the Scottish Government recognise that two additional tax burdens have been imposed on tourism businesses in Scotland in the past couple of months and that those will have an impact that it is the Government's responsibility to seek to address.

Ministers have argued, as Jim Mather did again today, that they cannot afford to provide transitional relief to hotels that have been hit hard

by rates revaluation. Gavin Brown said that it was incumbent on those who look for transitional relief to suggest how that might be implemented.

**Jim Mather:** Does Lewis Macdonald realise that transitional relief would mean 63 per cent of hotels being worse off or no better off?

**Lewis Macdonald:** No, I do not accept that. The fundamental problem is that ministers are not listening. John Swinney met Aberdeen and Grampian Chamber of Commerce on 23 May. The chamber of commerce explained to him the calculations that it had made and why it had come to the view that his were flawed. He went away and examined those calculations and his officials indicated by telephone to the chamber of commerce that, fundamentally, it had got them right. However, when he wrote back to it this week, he failed to take that on board.

The chamber of commerce also put to John Swinney a specific proposal for how a transitional relief scheme might be organised. He wrote back saying that he was not prepared to support that proposal and explained the reasons why he had come to that view. The chamber of commerce's disappointment at the rejection of that option was, I think, less than its disappointment that he did not provide an alternative option or even suggest that he was prepared to consider alternative options.

This is not a zero-sum game. As Sarah Boyack said, John Swinney indicated last month in answer to a parliamentary question that there was a £60 million increase in the revenue that is coming to the Scottish Government as a result of rates revaluation.

**Stewart Stevenson:** It is zero sum.

**Lewis Macdonald:** If the chamber of commerce is correct, the £60 million—which John Swinney concedes as additional Government revenue from rates revaluation, even if Stewart Stevenson does not—may be an underestimate. We have seen figures from various places such as the small town of Ballater in Mike Rumbles's constituency, which was mentioned in the debate. In Ballater, three quarters of the selected small businesses that were assessed and which previously qualified for small business rates relief no longer qualify because revaluation has put them over the threshold.

Those facts raise fundamental questions for those businesses, but they also affect the amount of money that is available to the Government. I hope that, when Mr Swinney meets the delegation from the Scottish Chambers of Commerce on Monday, he takes on board what we have said to him before and repeat today. These are not minor issues and we are not making a mountain out of a molehill; they are significant issues for many businesses.

There is no single solution, but there is a number of potential solutions if ministers are prepared to accept that they may have miscalculated and that their model may be wrong. They have certainly already accepted that they have £60 million that they did not have last year. Let them reconsider what else might be available to them. Even if they are not prepared to follow the Labour model that was established in England of a 12.5 per cent annual cap, what else can they do to limit the impact on businesses? It is open to them to consider that, and I hope that they will do so in a positive spirit on Monday.

10:15

**Jim Mather:** The debate has been characterised by massive misjudgments on the part of the Liberal Democrats. They seem to be more interested in attacking the Government than in improving and supporting the wellbeing of individual tourism businesses. Their approach does not conform to one that would make them collegiate partners in team Scotland, which is trying to optimise the tourism offering. Rather than helping to build an industry through collaboration and constructive criticism, there is a pattern among the Lib Dems of seeking to create division and seeing everything in the bleakest, blackest light. It is not the stuff of collaboration, trust and respect that leads to optimisation; rather, it is an approach that is deeply committed to the stuff of sub-optimisation.

**Mike Rumbles:** Will the minister take an intervention?

**Jim Mather:** Let me complete the charge sheet: misinformation, an incomplete picture, divisiveness, blame and negativity. Over the five-year revaluation cycle, business rates will not rise a penny more; in fact they will rise less. In 2010-11 alone, the decision to match the English rate poundage will save business in Scotland more than £200 million.

**Mike Rumbles:** Will the minister accept an invitation to Ballater?

**Jim Mather:** I would gladly visit Ballater.

**Mike Rumbles:** Thank you very much—

**The Deputy Presiding Officer (Alasdair Morgan):** Mr Rumbles, sit down.

**Jim Mather:** We have exposed a misjudgment of the mood of the tourism industry. The industry is working more closely than ever with the board, chair and management of VisitScotland to achieve a new beginning and a new vibrancy in the sector. Lots of other agencies are involved in that process. The Lib Dems have misjudged the fact that the people of Scotland are conscious of the tangible benefits that have accrued from the



advantages of the business-benefit approach to rates for small businesses and, hence, are concerned about anything that could reverse those gains. The Lib Dems have misjudged the fact that people realise that the Government has to be pragmatic from time to time in seeking to protect the greater interests and reputation of Scotland.

Lewis Macdonald mentioned alternative options. We have suggested alternative options today. We will work as never before with successful businesses that have been affected, to help them to move forward.

The Lib Dems have misjudged the mood of the revalued hotels. We understand that they would all prefer lower taxes, but revaluation is a hard-wired function of a long-established independent system. Businesses know that there is an appeals process, and we encourage them to take that route. Now, Government and many other small businesses and stakeholders want to work together to help those hotels to fill their rooms and restaurants. Like Scotland, they need to earn their way to better outcomes.

**Lewis Macdonald:** Does Mr Mather accept that the issue for hotels in my constituency and, I suspect, throughout the country, is not the revaluation process or the appeals process but the absence of transitional relief—a decision that his Government took without consulting business first?

**Jim Mather:** For 63 per cent of Scottish hotels, transitional relief would either have cost them more or kept them where they are. We are interested in channelling a programme of work in which we can help businesses to achieve higher occupancy, higher revenues and greater financial resilience. I have tried the negative approach and it does not work. A positive collaborative approach and capitalising on things such as the exchange rate takes us forward in a way that those who take the divisive and hypercritical approach can only dream of. We need to move away from that divisive approach.

As David Whitton suggested, the Lib Dem approach to accountability is to avoid it. As we have seen in *The Scotsman* today, many Lib Dems are saying on VAT, “No comment”, “Not an issue for me” and “I didn’t campaign for it.” The Lib Dems seek to damn the Government if we do and damn us if we do not. It is a fatally flawed and divisive strategy that is designed not to improve the system but to score political points. The Government has stayed focused on what is best for its sectors, in particular tourism—it has stayed close to that sector. It has rolled up its sleeves and is willing to roll up its sleeves further in working with the tourism industry and sharing the challenges that it faces. Unlike the Lib Dems, we are primarily focused on the industry’s reputation,

on Scotland’s reputation, on morale and investment in the industry and on the tangible results that will come forward.

Sarah Boyack mentioned the gathering yet again. Who carried out the initial due diligence that got the company up and running and funded? That is the key question. Cannot we look at the bigger picture and the collateral damage that could have happened to Scotland had we not taken pragmatic action? The important issue here is that we are positive about the tourism industry and we are working with it. There is a new board and a new chairman in place; we understand that they are managing operational matters and that they need to be left to manage them properly. The rates revaluation is normal in the model. Now is the time for Scotland to move together. Ours is the antithesis of an incompetent approach; it is a cohesive, collaborative and competent approach. We are all living with the legacy of Labour’s incompetent management of the economy.

10:20

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** The minister’s speech is in stark contrast to what the Economy, Energy and Tourism Committee was recently told. He said that the industry body is being led in a cohesive, competent and collegiate way, and that VisitScotland’s board and leadership are closer than ever. Why, then, was the committee informed that the chief executive will be sacked and that a strategic change of direction has to be made, without that information being published or anyone being aware of it? The Cabinet Secretary for Finance and Sustainable Growth, John Swinney, told the committee that Peter Lederer, the former chairman,

“raised no such concerns with me during his tenure as the chair of VisitScotland, and neither did any individual board members.”—[*Official Report, Economy, Energy and Tourism Committee*, 16 June 2010; c 3822.]

However, the new chairman informed the minister—who did not inform the cabinet secretary for a month—that it was the unanimous view of the board that it should get rid of the chief executive. If that is cohesive and collegiate, I do not want the minister to be responsible for any staff review in the Government.

There have been some positive moves for the economy and tourism in Scotland as a result of the United Kingdom budget. It was a tough budget, but the scrapping of the increase in tax on furnished lets is good news, as is the consideration of pilots for rural fuel discount and rural tourism. The income tax threshold increase will lift 100,000 low earners out of tax altogether and will help 2 million people on basic-rate incomes. That is more money in people’s pockets

and for the Scottish economy, which is critical for our domestic tourism and hospitality business.

**Jim Mather:** Now that he has access to the UK Government, will Jeremy Purvis take to his colleagues the message from France and Germany about preferential rates of VAT for tourism businesses?

**Jeremy Purvis:** I will take no lectures from a minister under whose Administration businesses face a 100 per cent increase in their tax bills. Is that the most authoritative position from which to ask me to make representations to the Treasury? If he gets his own house in order, lessons can be provided.

Let us address tax specifically. Last year, the minister believed that a 5 per cent increase in rates bills would be burdensome for business. Last year, the Government said:

“For those businesses that still have to pay rates, we are acting today to offer them vital breathing space in these tough economic times.”

That refers to a 5 per cent increase, and a decision to allow businesses to defer their rates increases. The Government believed that a 5 per cent increase would be harmful for the economy. It continued:

“Spreading the cost will improve cash flows this year and so help businesses through the current economic challenges so that they can be better placed to take advantage of the upturn when conditions begin to improve.”

However, now—shortly afterwards—the Government does not believe that a 42 per cent increase, a 59 per cent increase, a 43 per cent increase or a 120 per cent increase for Malmaison in Aberdeen, for the Radisson in Glasgow, for the Apex in Dundee, for the Townhouse in Melrose or the Dryburgh Abbey in the Borders places any burden on those businesses.

**Jim Mather:** Will the member take an intervention?

**Jeremy Purvis:** If I have time later, I will give way to the minister.

It is right that Parliament should continue to hold the Government to account for the decisions that it takes.

We have heard assertions from the minister on transitional relief. We have found out that communications between him and the cabinet secretary have been less than perfect over the past few weeks, so perhaps the minister does not know that John Swinney wrote to me after our previous debate to confirm that a number of transitional relief options could be introduced. However, only one has been put forward by the Government. Gavin Brown believes that I, single-handedly, should design the transitional relief

scheme rather than hold the Government to account for it.

Everything that the ministers have said has given the impression that businesses in Scotland are paying less in rates, but as answers to parliamentary questions from my colleague Alison McInnes and me show, the latest forecast for the yield from business taxation in Scotland for 2010-11 is £180 million higher than it was when this Government came into office in 2007. We are talking about a £180 million game, not a zero-sum game. That is the increase in revenue from business rates under the SNP Administration, which believes that no support should be provided to businesses that face increases of up to 100 per cent. We waited and waited. Finally, the minister said that the Government would help; he said that he would roll up his sleeves to support the companies that face such massive increases, but rolling up his sleeves and telling them to appeal is not the best action that he can take.

We make no apologies for raising the issues of rates and the leadership and strategic direction of VisitScotland. The Government set the strategic direction of VisitScotland in September 2007 in a statement by the Cabinet Secretary for Finance and Sustainable Growth. We have now been told that it is the unanimous view of the board that that strategic direction needs to be changed, but the Government has given us no indication of what the new strategic direction should be. If there is to be a change of strategic direction as well as of chief executive, the Government should publish a new tourism strategy for Parliament to scrutinise. Let us see it, discuss it and, with the participation of the industry, decide on the way forward. At the moment, the leadership of VisitScotland is in chaos. That needs to be put right. Many businesses face increases in rates of up to 100 per cent, but the Government is simply wringing its hands instead of rolling up its sleeves and acting, which is not good enough.

## Free Personal Care

**The Deputy Presiding Officer (Alasdair Morgan):** The next item of business is a debate on motion S3M-6633, in the name of Ross Finnie, on free personal care for the elderly.

10:27

**Ross Finnie (West of Scotland) (LD):** Liberal Democrats were very proud to play a prominent role in the introduction of free personal care, which we did as part of the previous coalition Government with the Labour Party. It was a landmark social reform, which is why I am pleased to address the motion.

The motion is predicated on a view that is strongly held by Liberal Democrats—which I think is shared by everyone in the Parliament—that older people in our society are an asset, not a liability, and that as their requirement for care and support increases, the mark of a civilised and compassionate society is to commit to their care and to face up to the challenges that are presented by demographic change and fiscal consolidation.

The motion's objectives are threefold. First, it seeks to allow the Parliament to reaffirm its commitment for the long term to free personal care. Secondly, it seeks to acknowledge that the policy is uneven in its delivery, so more work needs to be done on that, and that there needs to be greater collaboration among local authorities, the health boards and the Government to ensure that all elements of free personal care—which is a thoroughgoing policy—are delivered uniformly throughout the country. Thirdly, it seeks to recognise that in facing up to the demographic and fiscal challenges, there are—to borrow from Lord Sutherland—no sacred cows when it comes to reviewing and re-engineering how free personal care is delivered. I had intended that third point to be implicit in our motion; we are content to make it more explicit, so I am happy to accept the amendments of the Government and the Conservative party.

Free personal care is a policy that is of huge importance to older people in Scotland: between 9,500 and 10,000 people in care homes in Scotland receive free personal care and—more important—the number of people whom the policy has enabled to remain in their own homes is getting on for 45,000. Those figures are hugely significant not just in terms of the care that is offered, but in terms of the totality of the care services that we can provide to our elderly people in the community. Those services are hugely important.

We know that free personal care has not been easy to deliver, as the three reports on the issue have shown. The Government asked Lord Sutherland, one of the policy's originators, to look into its delivery. He made recommendations that were accepted by the Government and endorsed by the Parliament, but there is some evidence to suggest that not all of them have yet been fully implemented, which is a cause for concern. In particular, one of Lord Sutherland's recommendations was that we should establish clear national priorities and outcomes. That recommendation has not yet been fully put in place, which makes it difficult for us to establish the necessary measurement techniques that will allow us to assess and evaluate whether some aspects of the policy are being implemented. I hope that the Government will address that issue.

Lord Sutherland's work was followed by the Audit Scotland report which, by and large, endorsed Lord Sutherland's recommendations. It highlighted the need to clarify ambiguities, the need for consistency in the application of guidance and the need to set substantive outcome measures to evaluate the effectiveness of the policy, which reinforces my earlier point. Most recently, we had the University of Edinburgh's report "Older People, Public Policy and the Impact of Devolution in Scotland".

All that work has indicated that it is imperative that we retain free personal care as a crucial part of our policy framework. I acknowledge that the Government's document "Reshaping Care for Older People" will play a critical role in our ability to deliver on the policy. As Lord Sutherland pointed out, free personal care accounts for only one tenth of all the care that we provide for the elderly. If we are to address the cost of that to society, we must take an holistic view of the provision of care for our older people, which is why I commend the Government for its work on reshaping care. I do not necessarily agree with every jot and tittle of what is proposed, but in attempting to take an holistic view of how we provide such care and how we can re-engineer much of that provision so that we drive down costs and therefore make it possible for us to sustain the delivery of free personal care, the Government is performing an urgent task.

That is the motion's purpose. Given the way in which the amendments are set out, at 5 o'clock this evening I hope to obtain absolute endorsement of the principle of free personal care for the longer term, and an acknowledgement that sustaining that policy will require a lot of hard work to be done on how we deliver it and on how we will drive costs out of that delivery.

I move,

That the Parliament believes that free personal and nursing care for the elderly has widespread support and continues to deliver real benefits for tens of thousands of Scotland's most vulnerable older people, allowing them the dignity and independence of growing old in the comfort of their homes; recognises that budget constraints and demographic change present challenges for Scotland's social care and health services, but, in order to protect the elderly, reaffirms its commitment to free personal and nursing care for the long term so that Scotland's elderly population can continue to receive the care to which it is entitled.

10:34

**The Minister for Public Health and Sport (Shona Robison):** I welcome this debate on free personal and nursing care. It provides us with an important opportunity to reflect on the original policy aims and to consider how they fit in the current environment.

Let me be clear from the outset: the Scottish Government remains absolutely committed to free personal and nursing care and has reiterated that commitment on a number of occasions. Only last week, the First Minister reaffirmed our commitment to this important policy in reply to a question by Murdo Fraser during First Minister's question time. The reason for our commitment is that the policy delivers real benefits and better outcomes to more than 50,000 older vulnerable people throughout Scotland.

We remain committed to the policy despite the budget announcements by the Chancellor of the Exchequer. It was always going to be challenging to continue to deliver on the policy, and after Tuesday's budget it has become even more challenging, but it is a challenge to which the Scottish Government is determined to rise.

As Ross Finnie said, the policy is one of the great achievements of the Scottish Parliament, but its proper administration and funding have been one of the great achievements of this Government, with £40 million investment to stabilise the policy and a clear framework and set of eligibility criteria having been established.

As everyone, I am sure, is aware, the value of providing free personal and nursing care has been questioned in certain circles as a result of budgetary pressures. Lord Sutherland made it clear in his independent review in 2008 that the policy was sustainable at that time for the next five years. However, he also concluded that we need to adapt the policy to address demographic changes in the medium and longer terms, and that changes are necessary to ensure the sustainability of the policy. That is why the Scottish Government is actively working with local government, the national health service and the voluntary sector to agree what we need to do now to shape the future of health and social care as part of the "Reshaping

Care for Older People" programme, and thereby to ensure that the free personal and nursing care is sustainable into the future.

At local level, much is happening across Scotland to reshape and modernise care services to make them more outcomes focused, more personalised and more responsive. Since April this year, we have undertaken a process of public engagement to consider how best to address the challenges of an ageing population and diminishing public funding. We are currently asking people across Scotland to consider the future care demands and needs of older people, and we will listen to what people have to say in that consultation. That engagement has been commissioned by the ministerial strategic group for health and community care, which I chair and whose members are NHS chairs and senior local authority councillors.

I stressed during a debate on reshaping care for older people in October last year that

"We, as parliamentarians, must work together to put down a marker of the Scottish Parliament's"

continuing

"will on how best to provide care for older people that is sustainable, deliverable, appropriate and fair."—[*Official Report*, 28 October 2009; c 20544.]

We must have a care system that takes account of not just personal care but all social and health care.

How we organise, integrate and deliver all social services and the health service is a substantive point for debate. It might well be that better integration could produce a more efficient service without jeopardising the care that is given to older people. We are looking at that, and on that basis I am happy to support the thrust of the Conservative amendment.

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

In terms of efficiency and the background of the financial challenges that we face, is it reasonable and fair that councils pay 80 per cent more for a placement in a council home than they do to place someone in the independent or voluntary sector?

**Shona Robison:** As I have said to Mary Scanlon on a number of occasions in the chamber, those are all things that we should consider as part of the agenda in reshaping older people's care. What is the role of the independent sector, whether in the provision of care homes or care at home? What is the role of local authority services in the same context? We must ensure that we have the right fit of services, with the right skills to provide the services that people need.

Published expenditure figures for 2007-08 show that total spend on free personal and nursing care was £358 million, which was less than 8 per cent

of all health and social care spend on people over 65. As Ross Finnie said, it is important to put in context the spend on the free personal and nursing care policy. It is too simple to imagine that removing a popular and landmark policy such as free personal care would achieve major budgetary savings. Indeed, it might have the opposite effect by pushing up the number of people who seek to remain in hospital beds free of charge because they cannot immediately find the money to pay for their care-at-home packages.

Furthermore, if Parliament is looking to achieve greater leeway in the budgets, I remind members that the review that was chaired by Lord Sutherland also recognised the long-standing imbalance between Scotland and the UK's finances going back to when the policy was introduced. That is, of course, the issue of the savings that were made by the United Kingdom Government by removing the payment of attendance allowance to Scottish self-funders in residential care, which is currently saving the UK taxpayer around £35 million a year. I hope that the Parliament will support a call for the UK coalition Government, under the respect agenda, to take a fresh look at that imbalance.

In conclusion, let me reiterate that, as long-term advocates of the policy of free personal care, we remain committed to its principles and long-term success. It is a policy that gives help and peace of mind to thousands of people at a time in their lives when they need it most. I am happy to move the amendment in my name.

I move amendment S3M-6633.1, to insert at end:

“, and welcomes the wide-ranging Reshaping Care for Older People programme, which is developing innovative and practical ideas for change to meet the needs of Scotland's population that are sustainable, deliverable and fair.”

10:40

**Murdo Fraser (Mid Scotland and Fife) (Con):** I start by thanking our friends in the Liberal Democrats for giving us the opportunity to debate this important subject, and I congratulate Ross Finnie on his magisterial opening speech.

The Scottish Conservatives are proud of the policy of free personal care, which was introduced with our support in 2002. Free personal care means that, regardless of income, capital assets or marital status, all those who are assessed as needing personal nursing care will have it paid for for them. It is an important policy, not just because it protects those who have worked hard all their lives, acquired property and saved for their retirement in order that they can protect themselves and pass money on to their families, but because it protects the dignity and

independence of our older citizens, to whom we owe so much.

It is worth mentioning as an aside that the policy of free personal care is one area in which we in Scotland do things differently from our counterparts south of the border. That applies to the Conservative party as much as it does to others. Free personal care is a policy that we support but which is not supported by our UK counterparts, and it is therefore one of a number of areas of difference between us. Cynics might suggest that, unlike our colleagues south of the border, the Scottish Conservatives support personal care while, unlike us, our colleagues in England and Wales have success in winning elections—but I would not want to make that point.

I am sure that all of us from our constituency mailbags can remember having been contacted by elderly people, or perhaps their relatives, who are in a state of real distress at having to sell family homes to fund expensive long-term care. The introduction of free personal care has not solved those problems entirely, as food and lodging costs still have to be paid and can be extremely expensive, but a major contribution has nevertheless been made to removing what was often a heartbreaking situation for many families.

That is not to say that the policy is without its challenges. Free personal care is an expensive policy to implement, and it is becoming more so. As we have heard, the major driver for that will be demographic changes. The fact that people are living longer is a good thing, but it comes at a cost. In his independent review of free personal and nursing care in April 2008, Lord Sutherland found that, although the cost of the policy was anticipated to be £136 million in 2006 rising to £227 million in 2022, in reality the total bill was £256 million in 2006 and it was estimated that it would rise to £813 million in 2031. No one can deny that there are serious financial challenges ahead.

Notwithstanding all that I have said about costs, the Scottish Conservatives value the policy, and for that reason we are pleased to support the terms of the Liberal Democrat motion. However, if the policy is to be affordable in the long term, we will have to find savings elsewhere to help to pay for it, which is the point that is addressed in my amendment.

We have to find more savings within administrative costs throughout the NHS in order to protect front-line services. The Audit Scotland report on locum doctors that came out last week gave a very good example of where savings can be found, when it identified £6 million that health boards could find quite easily if they were to operate more efficiently.

On free personal care, Lord Sutherland suggested a single budget for health and social care and a common commissioning policy to eliminate duplication. That reflects a measure for which the Scottish Conservatives have been calling for years. It was also the unanimous recommendation of this Parliament's Health and Community Care Committee when it looked at the issue as far back as 2000. It would represent a way of doing things differently and would result in a transfer of social care budgets from local authorities to the NHS or possibly to some other body. However, we believe that we need to consider that seriously if we are to free up the savings that are required. That is the point of our amendment.

The Scottish Conservatives are proud to support free personal care, and we support the Liberal Democrat motion. However, if the policy is to be affordable in the longer term, we need to find savings. For that reason, I have pleasure in moving the amendment in my name.

I move amendment S3M-6633.2, to insert at end:

“; urges the Scottish Government to continue to identify savings in administrative costs that can be reinvested in frontline services, and, in this context, calls on the Scottish Government to give serious consideration to the proposal from Lord Sutherland to merge health and social care budgets.”

10:45

**Jackie Baillie (Dumbarton) (Lab):** Like others, I welcome the opportunity to debate free personal care, and I welcome the unanimity of opinion that has broken out in the chamber, particularly between Murdo Fraser and Ross Finnie—I am sure that we will see more of that in the future.

I start from the premise that a society is judged by how it treats its young people, its older people and its most vulnerable. I spent some of my early years in Hong Kong, where I witnessed a culture where the old were revered and valued for their knowledge and experience. That shaped my view of older people and my belief that we should treat them with dignity and respect.

Regrettably, all too often we think of older people in terms of challenges—for example, the challenge of an ageing population and all that that means for public policy, and the challenge of providing the care that older people require. In some areas, older people are treated almost as the passive recipients of care and are given little choice or control. We need to stand all of that on its head because, after all, only one in 10 older people needs on-going care and, in the 65 to 74 age group, the figure is only three in 100. We are living longer, thanks to advances in medicine, and it is incumbent on us to think through how we can

best and most effectively provide care for the growing numbers of older people in the future.

I am proud that it was the previous Labour and Liberal Democrat Scottish Executive that introduced the policy of free personal care. It was Henry McLeish, as First Minister, who drove that policy forward and made it one of the defining features of his Administration and, some would say, of devolution.

There is no doubt that free personal care is greatly valued by those who receive it. We on this side of the chamber are clear in our view that free personal care should remain.

That said, we would all acknowledge that free personal care is but one part of a much wider system of health and social care that is provided for our older people. I welcome the work that the Scottish Government has started with the Convention of Scottish Local Authorities and the NHS to reshape the care of older people. That work is at an early stage and elements of the different workstreams are out for consultation. However, one workstream, on the future funding of care, is not yet in the public domain although, in the context of tightening financial budgets, it is, perhaps, the most significant piece of work that we need to engage in. I invite the minister to state, when she sums up, that she will give us an opportunity to debate the options around that issue. I specifically ask her to allow us to do so in the context of our budget deliberations, which will start in the autumn.

There is a postcode lottery of care across Scotland, with local authorities having different levels of charging for the same service, different criteria on which to assess eligibility for a service and even different thresholds for income disregard. It is simply not fair for someone in one local authority area to pay 10 times more than someone pays in the same circumstances in a neighbouring local authority for exactly the same service.

I believe that there are a number of key principles on which we should base any future system of social care for older people. First, there should be fairness and equity. Wherever someone lives in Scotland, they should have the best possible quality of service, and people whose circumstances are the same should pay the same. That would deal with the situation of people who live in neighbouring authorities paying different charges, as is the case in Argyll and Bute Council and West Dunbartonshire Council, and in Moray Council and Aberdeenshire Council. Labour is absolutely committed to ending the postcode lottery that currently exists in relation to the care of our older people.

Secondly, we should acknowledge that prevention is better than cure. It is much better to provide the support that enables older people to remain in their own homes than it is to fund admissions to hospital, which are costly not only to the NHS but to the individuals and families involved. I have seen older people being admitted to hospital after a fall at home that was caused because they have had to wait months for a necessary aid or adaptation to their home that would have prevented the fall in the first place. We need to get better at ensuring that we get the balance right and move, where possible, towards prevention.

**Shona Robison:** Will the member give way?

**Jackie Baillie:** I am not sure whether I have time. Do I, Presiding Officer?

**The Deputy Presiding Officer (Trish Godman):** You do.

**Shona Robison:** On getting the balance right, does Jackie Baillie accept the need for MSPs of all parties to support local changes that will shift the balance of resource, including the closure of some beds in acute hospitals to fund community services?

**Jackie Baillie:** I have no problem with ensuring that prevention is properly resourced and that we shift the balance of care. However, I will not sign up to the Scottish National Party's programme of cuts to the NHS, which is going on as we speak.

Thirdly, we need to start thinking differently about our older people and begin to regard them as a resource, not a burden. Their experience should be harnessed for the benefit of local communities, and we need to help them to help themselves to keep fit and healthy, so that the need for formal care is delayed. Further, we need to support those who care for them on an informal basis. It is a matter of much regret that carers assessments, for example, have not been taken up across Scotland.

I welcome the opportunity to send a strong signal about Labour's continuing commitment to free personal care for older people, one of our flagship policies, which we share with the Liberal Democrats. The policy has been a welcome addition to the system of social care provision, but the debate needs to widen. The Parliament needs to consider how we provide for the growing number of older people, how we fund their care and how we can deliver a policy that is sustainable.

10:51

**Christine Grahame (South of Scotland) (SNP):** I congratulate the Liberal Democrats on

using their limited debating time to allow us to debate this motion.

In March 1999, when the report on long-term care of the elderly that recommended that personal care, wherever delivered, should not be charged for came out, I was a green back bencher. On reading the report, I phoned Sir Stewart Sutherland—as I did, in those days—and that autumn visited him in his office in Old College to discuss how his recommendation could be implemented. My boldness matched my naivety. However, some now consider that the Parliament, though bold, was also naive when it introduced that policy in 2002.

Again, I commend the Liberal Democrats for their conduct during the period from 1999 to 2002. I am well aware that they were the coalition members who drove the policy through—if I recall correctly, the minister with responsibility for health at the time, Susan Deacon, was not in favour of a universal scheme and would have preferred there to be some form of means testing.

Implementing free personal care for people aged 65 and over, particularly in an era when the shift is from hospital and residential homes to people's own homes, was, in principle, the right thing to do, because that care is just another facet of the universality of our health service.

As others have said, the implementation of the policy has not been without flaws, and David McLetchie has quite rightly campaigned to end the situation whereby his constituents are charged for food preparation, which was also charged for in the Scottish Borders. In April 2009, the Government introduced legislation to try to end that invidious practice and, in September 2009, guidance on a common eligibility framework and a consistent approach to waiting lists was introduced, in an attempt to close loopholes that councils were busy trying to open up.

Currently, 47,000 Scots receive free personal care at home and 9,000 long-stay residents in care homes also benefit from the policy because they are self-funders. Given that the number of elderly people is always increasing, cost will always be the main issue. However, as a Parliament, we have choices to make, and the right choice is to protect the most vulnerable in society.

The bill will rise, and I agree with the comments made by other members about merging social work and health budgets, where possible, to enable us to deliver services and aids and adaptations in a sensible fashion that avoids duplication; that is an issue to which the Health and Sport Committee returns regularly.

The issue of the lost attendance allowance has become imperative. On 15 May 2008,

Conservatives, Liberal Democrats, Greens and independents backed a Government motion that said that Parliament

“notes Lord Sutherland's clear conclusion that the UK Government should not have withdrawn the attendance allowance funding in respect of self-funding clients in care homes, currently valued at over £30 million a year, and urges the Scottish Government to pursue vigorously with UK Ministers the reinstatement of this funding while longer-term work to re-assess all funding streams relevant to the care of older people in Scotland takes place.”

It is ridiculous that we are still losing £40 million per annum in attendance allowance that could be put back into systems for the care of our elderly.

I note the individual members who supported the reinstatement of attendance allowance. Malcolm Chisholm said:

“I agree with the cabinet secretary on the specific attendance allowance issue”.—[*Official Report*, 7 May 2008; c 8293.]

Alison McInnes—whom I will quote as she is in the chamber today—said:

“The UK Government was wrong to withhold the attendance allowance. It is surely time for UK ministers to acknowledge that and pay up.”—[*Official Report*, 15 May 2008; c 8720.]

We should go with that calling card, now that we have a Conservative-Liberal Democrat Government at Westminster.

When our Liberal Democrat Secretary of State for Scotland, Michael Moore, visited the Parliament, I raised the issue with him. I said to him that I hope that he is Scotland's man in the Cabinet, not—to use the old phrase—the Cabinet's man in Scotland. He should put his money where his mouth is and say to the Chancellor of the Exchequer, “Here is the respect agenda for Scotland: we will deliver respect for the elderly not just through words, but by getting the attendance allowance back and putting it towards the care of Scotland's elderly.”

I hope that there is movement on the issue. I am glad that the Liberal Democrats and Conservatives agree with free personal care for the elderly, on which Scotland led the way. We should ask ourselves what would have happened to attendance allowance if free personal care had been introduced in England. It would have been kept and ploughed back into care for the elderly there, so we should have justice for the Scottish elderly here.

10:56

**Helen Eadie (Dunfermline East) (Lab):** Our debate today takes place against a background of budget cuts that are—and will continue to be—the severest that we have witnessed for decades. That is a crisis for the NHS in 2010, and it will be

more far-reaching still because there are higher public expectations and more programmes, and the NHS is much larger.

Our political leaders will have a natural inclination to ignore the unpleasant realities to come, but if we are to reduce the human and social cost, it is essential to face up to those. The funding crisis is likely to lead to a covert rise in yet more waiting times. As we know, there are currently waiting lists to get into homes, which is rationing by stealth. The information revolution and more explicit quality standards will raise that crisis for the NHS to near the top of the political Richter scale.

Our policy is not shaped in a vacuum and we have a duty to keep an eye on policy that is developing in other parts of the UK. However, I am proud that a Labour-led Scottish Government in coalition with the Liberal Democrats developed the policy to establish free personal care for the elderly, which has been in place since the first session of the current Scottish Parliament.

I am also proud that 62 years ago, Labour's great Aneurin Bevan established the NHS to end the unfairness of people with the greatest needs facing the highest costs and the people who had the least being in danger of going without having their needs met at all.

Today, our challenge is that the same unfairness exists in social care. If someone happens to develop dementia in old age, rather than cancer or heart disease, they are yet to find the “freedom from fear” that the NHS promised all those years ago. Free personal care for the elderly is—as Ross Finnie said at the start of the debate—a landmark social policy, but we must remove the postcode lottery of care provision throughout Scotland.

There are now 36 per cent more old and vulnerable people receiving free personal care in their own home than there were five years ago, but we have much to do. Scottish Labour plans a policy of continual review and improvement, and it is welcome news that the other parties have reaffirmed their commitment today to continue the policy no matter what happens.

Many critics, some of whom appear to have wanted our policy to fail, have raised concerns about the sustainability of such a package and the limitations of our Scottish model. They have argued that elderly people in many parts of Scotland have experienced delays before receiving their care as local authorities struggled with competing demands on their resources. In looking to the future, we must learn all the positive lessons from the experience that we have gathered from implementing the policy, while acknowledging all the concerns.



However, we need to keep an eye on what has happened at Westminster. With the election of a Con-Dem coalition Government, voters across Scotland have much to worry about. Just two years ago, David Cameron wrote a manifesto in which he proposed that the NHS would be drained of funds as money flowed into subsidising private health care. Will Nick Clegg follow that? Will the Scottish Liberal Democrats follow the example of their leader at Westminster?

Who can trust the Tories? Scotland knows that it cannot trust the Tories, and the wounds from the previous period of Tory Government are still raw and run deep in the history of our towns and villages. However, the much bigger question for voters now is whether they can trust any Lib Dem in the UK or in Scotland.

There are radical thinkers in the Liberal Democrats whose ideas include breaking up the NHS and funding health through social insurance as opposed to general taxation. They advocate that the state should cease to manage the NHS on a daily basis.

**Margaret Smith (Edinburgh West) (LD):** Does Helen Eadie accept that coalitions sometimes do the right thing? It was thanks to the Liberal Democrats in coalition with the Labour Party that Labour did the right thing on free personal care, because Susan Deacon, Sam Galbraith and various other Labour figures fought tooth and nail against the former Health and Community Care Committee, which I chaired at the time.

**Helen Eadie:** Labour has always done the right thing through the ages, something which the Liberal Democrats cannot hold up their hands and claim to have done.

Those radical Liberal Democrats have said all that while claiming that during the past three decades their party has mislaid its traditional economic liberalism, partly due to its association with Thatcherism, and allowed itself to be captured by what they call “soggy socialism and corporatism”. They say that the

“new challenge is to what extent we can utilise choice, competition, consumer power and the private sector to deliver a better deal for those on low incomes, as well as for those who can fend for themselves”.

That is what the Liberals are saying at their party conferences, and what the Scottish Liberal Democrats are signed up to.

Some of the contributors—not all of whom agreed on the details—included Vince Cable, the then shadow chancellor, Mark Oaten, the then shadow home secretary, Ed Davey and all the other celebrities in the Liberal Democrat party.

The Liberal Democrats must tell us the extent to which they subscribe to those policy proposals,

because we need to know. The Liberal Democrats’ long-standing commitment to free personal care does not preclude people paying for services; its health spokespeople are on the record as saying that that is the way forward.

The Liberal Democrats support the stakeholder model, which is intended to preserve and enhance equity by making it impossible to queue jump and by guaranteeing a core package of services for all. However, according to John Chisholm, the former chairman of the British Medical Association general practitioners committee, the mixed funding stream with top-up packages that the stakeholder model creates undermines the fundamental values of the NHS.

We need answers from the Liberal Democrats on the extent to which they will distance themselves from Nick Clegg, and I hope that we will elicit those from them today.

11:03

**Sandra White (Glasgow) (SNP):** I remind Helen Eadie that her party told the Scottish people that they should vote Labour to keep the Tories out. They voted Labour, and they got a Tory Government, so the Labour Party has some explaining to do.

I congratulate Ross Finnie on his contribution, which was moving and sincere. As convener of the cross-party group on older people, I, like others, was delighted when the legislation on free personal and nursing care was passed. The cross-party group was very involved in the legislation as it went through the various stages, and I saw it as democracy in action on the part of Lord Sutherland and others.

Without free personal care, particularly at home, an increasing number of elderly people would be forced to move into care homes. Not only does that deprive them of their home comforts, but the cost of care homes is greater than that of home care. It is estimated that home care costs £5,754 per person per year, whereas care homes cost around £23,000 per person per year. Despite what some members may say—and have said—free personal and nursing care, particularly at home, saves money in the long term by reducing the cost to the NHS and to the whole country.

I will expand on the issue, and give an example of what I am trying to get at. Without free personal and nursing care, older people may put off receiving treatment, which increases their chance of having accidents or of health conditions worsening. That would only add to the £1.4 billion price tag for unplanned emergency hospital admissions, 31 per cent of which—the largest percentage—is already spent on older people’s care. In the long term, free personal nursing care

saves Scotland and its NHS money, and I certainly do not believe people's claims that caring for older people is too costly. Yes, we have to be realistic but, as Ross Finnie so eloquently put it in his speech, what kind of society are we if we cannot look after our older people?

As members have acknowledged, there have been problems with the delivery of free personal and nursing care, not least because of how some—though, I point out, not all—local authorities have interpreted the provision of services, in particular food preparation. I welcome the Scottish Government's move to introduce secondary legislation to clarify that issue because, as other members have made clear, free personal and nursing care cannot be subject to a postcode lottery. Clarity is also needed on entitlement, and a common framework must be implemented to ensure that people throughout the country are not affected by yet another postcode lottery. Local authorities must get together on all those issues and move towards implementing a system in which everyone in the country, no matter where they live, receives the same free personal care.

The withdrawal of the attendance allowance from Scottish pensioners, which Christine Grahame went into in great detail, is scandalous and, indeed, discriminatory. My mother and father, others' mothers and fathers, relatives and so on worked and paid their taxes all their lives, but these pensioners are now being told that because they have benefited from the Scottish Parliament's progressiveness—and we all agree that free personal and nursing care has proved to be a fantastic way forward and that it is wonderful that people can now stay in their own homes, be more comfortable, be nearer their relatives and so on—they will not be able to access that money. People can call that whatever they like, but I believe that it is discriminatory and that those older people are being penalised just because they are Scottish pensioners. If it had happened in any other country in the world, the Government would be taken to court, and I sincerely hope that the issue will be raised in the new partnership—I think that that is what we are calling it; it is not yet a concordat—between the Scottish Government and the new Government in Westminster. The issue desperately needs to be clarified. The money has been taken away from Scottish pensioners just because they are Scottish and because the Scottish Government is progressive in its approach to health, and we need to get it back.

A tenth of our older people rely on free personal and nursing care. Although, as members have pointed out, certain areas need to be reviewed, clarified or simplified, under no circumstances should such provision be reduced.

11:07

**Marlyn Glen (North East Scotland) (Lab):** I am pleased to take part in this debate on free personal care for the elderly. The policy, which was begun under the previous Labour-led Scottish Executive, is highly valued by elderly people and their carers, and Labour wishes to see it continue. Indeed, we stand by our belief that we should never forget the most vulnerable in our society, and free personal care was at the vanguard of turning our values into law. As we consider the policy's future, it is important that we strongly recommit to it.

The Scottish Government says that it is

"urging Scots to consider future care for older people alongside climate change and the economy as one of the country's top priorities"

and that

"If current models of care are sustained, the present care budget of £4.5 billion will need to rise by £1.1 billion by 2016 and £3.5 billion by 2031."

As the minister has also talked about working

"In partnership with Scotland's local authorities"

I asked Dundee City Council, which is run by an SNP minority administration, whether it had made any estimates of the cost of maintaining the current level of provision of free personal and nursing care over, say, the next five or six years based on population projections. It replied:

"Not as yet. They are currently being developed as part of an estimate of demographic pressures."

It appears that so far the partnership with local authorities does not extend to the Scottish Government's ability to ensure that it has information such as that for its reshaping care for older people consultation.

**Shona Robison:** Will the member—

**Marlyn Glen:** Perhaps the minister will let me continue.

Of course, Dundee, with its ageing population, faces the same demographic pressures as all other Scottish councils. Dundee's population is projected to be 142,000 in 2013, with almost 27,000 aged 65 or over. Although the population is forecast to decrease to 137,000 by 2028, the number aged over 65 is predicted to rise to almost 32,000, an increase of about 5,000. Unfortunately, there is no corresponding increase in healthy life expectancy, or the number of years that a person might expect to enjoy good health. In fact, for men and women in Dundee, the disparity is above the Scottish average. Although, as we have heard, the majority of older people will never have contact with the care system, we must get it right for those who do, and the Scottish Government must engage constructively with the UK Government

through the review of social care in England to secure the long-term sustainability of free personal care in Scotland.

Despite the fact that free personal care is a highly important issue in its own right—according to the Scottish Government, it is on a par with climate change—the online material for the reshaping care for older people consultation compares unfavourably with that for other consultations on the Government's website. At the moment, there is only one 12-page leaflet. In comparison, the Scottish Government's consultation documents on proposed public records legislation run to 26 pages—

**Shona Robison:** Will the member give way?

**Marlyn Glen:** I ask the minister to let me finish my point.

The Scottish ferries review runs to 76 pages and the consultation on the proposed tobacco display and sale regulations runs to 64 pages. As I say, despite its obvious—and agreed—importance, the reshaping care for older people consultation can muster only 12 pages; clearly there is room for much greater detail. The programme's thrust is to shift the emphasis from acute provision to a preventive re-enabling model.

**Shona Robison:** Will the member give way?

**Marlyn Glen:** No, thanks.

Although that seems like the right direction, the consultation must be fair and thorough.

It is interesting to view the contents of the short booklet available on the website in the light of comments from the Royal College of Nursing Scotland, which has referred to the

"lack of publicly available evidence",

the fact that

"little coherent information is ... available both at national and board level"

and the need for

"access to accurate, up-to-date and transparent evidence on the current situation".

If we are to redesign services in the best way possible and continue this flagship policy of free personal care, there must be clear and full information to allow proper engagement.

11:12

**Mary Scanlon (Highlands and Islands) (Con):** I, too, thank our friends the Lib Dems for using their time to debate free personal care and acknowledge the cross-party commitment to the policy.

During the passage of Community Care and Health (Scotland) Bill, the Conservatives stated that a long-term approach to funding free personal care was essential. Indeed, that has been highlighted in the briefing that we have all received from Age Scotland. With the new coalition Government at Westminster, we have an opportunity to engage constructively in finding ways of funding long-term care for the elderly.

In preparation for the debate, I looked back at my speech in the stage 3 debate on the Community Care and Health (Scotland) Bill, which had been taken through the committee stages under Margaret Smith's able convenership of the Health and Community Care Committee. I noted then that, instead of the

"single body for budget holding and planning and commissioning community care services"—[*Official Report*, 6 February 2002; c 6099.]

that the committee had recommended, we got "aligned and pooled budgets". I also remember that all witnesses bar one were in favour of a single budget, although there was no agreement on which organisation would hold it. That confirms the basis of Murdo Fraser's amendment in this debate.

The Community Care and Health (Scotland) Act 2002 also introduced direct payments for the elderly, which were welcomed as bringing more accountability, freedom and choice into the provision of care. However, many carers have found councils less than willing to assist them with this service. As a result, the council becomes the monopoly provider of home care services, with no alternative available to people who feel that the service is not what has been promised.

Secondly, the act promised that elderly people cared for at home or in care homes would receive regular six-monthly assessments, which are essential in ensuring that the care package is updated to address the individual's on-going needs. I know from many constituency cases that some people have been on the same care package for years, whether it is home care or residential care, with no further assessments being carried out, despite the fact that their general condition and mobility have deteriorated considerably.

During committee proceedings at the time, we constantly discussed the issue of having one type of care home for the elderly, and were assured that that would be the case. There were to be integrated care homes that would take care of people's residential and nursing needs, with no need to move elderly people to another place for nursing care. However, that has not happened. Instead, we have three types of care homes for the elderly: residential, nursing and integrated. The result is that elderly people remain in

residential care homes when they really need nursing care, and the appropriate level of care is not given at the time of need. Further, many care homes provide nursing care but are paid for providing a lower level of care. In Inverness recently, a woman who is a nurse visited her mother in a residential care home and had to point out to staff that her mother had had a stroke. That was because there were no nursing staff there. That highlights the situation, which was not what the Parliament intended. I trust that the minister will examine that.

As I said earlier in an intervention, in the current financial situation we must surely consider the cost of placements in care homes. From a freedom of information inquiry last year, I learned that Highland Council—which today will vote on care homes, as I am sure Jamie Stone will point out—pays 80 per cent more for a person in a council home than it does for someone in a home in the voluntary or the independent sector.

**Dave Thompson (Highlands and Islands) (SNP):** Will the member give way?

**Mary Scanlon:** Let me finish.

Argyll and Bute Council pays £357 for someone in the independent or the voluntary sector compared with £817 for a person in a council home. In Dundee, the figure is £454 for the independent sector and £826 for council homes. The fact is that all care homes must meet identical quality standards. Under the current funding arrangements, for every five people who are funded in the independent sector, only three can be cared for in council homes from the same budget. Given the demographics that we face, we must be honest and fair and consider that issue.

Then we have the self-funders. Given that every person who is in a care service receives an identical level of care, should not the payments for their care be identical? Those who are self-funding can pay twice the amount that the council pays for care of another resident, which surely is not fair or reasonable. That has resulted in many families of people who are self-funding complaining that they are subsidising the care of others.

As Jackie Baillie said, given the rising number of people who are in need of free personal care, more emphasis must be put on preventive care. That is a good point that we should not lose sight of. Access to chiropody services, shorter waiting lists for assessment and access to aids are all essential.

I seek clarity from the minister, either in her winding-up speech or in a letter, on the issue of notional capital. What is the time period for disposing of the family home and the use of that financial asset to pay for care?

I support the motion and the amendment in the name of Murdo Fraser.

11:19

**Dr Richard Simpson (Mid Scotland and Fife) (Lab):** The debate has been largely consensual. As Ross Finnie said, the starting point is that older people are an asset, not a liability. That is a fundamental point of which we must not lose sight. The demographics mean that we are faced with increasing longevity and substantial increases in the number of the very old, although it is interesting that those who are over 85 tend to have fewer long-term conditions and can be fairly fit—if we get to 85, we have a chance of living well beyond that. One problem is that healthy living has not increased in the same way that longevity has. We are faced with the major challenge of an elderly population with significant long-term conditions. Many members have referred to the need for effective prevention of emergency admissions, which are expensive and not good for the patient or individual.

The figures are clear: 9,500 people receive free personal and nursing care in a care home and 45,000 receive care at home. The budget figures are also clear and show that all that accounts for only 8 per cent of the total care budget, which is a point that is not recognised in England. Although the cost will rise, it is not likely to rise as a percentage of the total care budget. In England, the latest discussion document, which came out last year, indicated that the average cost of care for those over 65 is about £30,000 a year. There is a debate on the issue in England, and a consensus on at least two points. First, there is consensus that there is a problem and that the current situation is not equitable, sustainable or fair. Secondly, there is consensus in the opposition to the uniformity and consensus in Scotland, where all parties support free care. We have a clear dividing line between the Scottish Parliament and the English parties.

As those parties debate the way forward, there should be an opportunity to revisit the issue of the attendance allowance, to which Christine Grahame and Sandra White referred. Taking the totality of care, it is clear that including that funding to us would be helpful.

Under the Liberal Democrat and Labour Administration that drove forward the free personal care policy—Henry McLeish was the First Minister who was committed to it—we endeavoured to introduce the joint future programme. That was an attempt at the grass roots to introduce unified budgets for health and social care. However, the programme has gone very slowly. The minister might advise us as to whether the joint future programme is continuing, as I have no idea. In

Perth and Kinross, which was the pilot area, it took 18 months even to agree the salaries of two individuals—one from health and one from social work—to do the same job. The willingness to make progress on that has been very poor.

When change is driven hard from the centre, as happened with delayed discharges, a particular problem with that interface can be eliminated. Local authorities did not gain from taking people out of hospital—it was a cost on the local authority, so why would they ever do so? However, by driving change from the centre, we have been able almost to eliminate delayed discharges, although it is regrettable that the Government's promise to keep the rate at zero has not been kept. The figure rises to about 100 at the worst times every year.

As Helen Eadie said, the history of free personal care started with Bevan's introduction of the NHS. We should not forget that the NHS included long-term care until the 1980s, when almost all long-stay wards were closed and the nursing element was devolved to local authority and private nursing homes. That is when the enormous discrimination began to arise. Someone who was dying of cancer went into a hospice or hospital, but someone who had dementia, for example, had to meet their own costs. We can do without that sort of discrimination, which Irene Oldfather has referred to repeatedly in debates on the issue.

In Scotland, all parties are in favour of free personal care. We need to develop that partnership. Government, local authorities, the voluntary sector, users, carers and the wider public must all be involved in the debate as we proceed. We certainly need to squeeze out inefficiencies and shift the care from the acute to the preventive. However, in reality, the threshold for care in the community is rising. People need to have more and more severe conditions to get care, which is the exact opposite of what we need to do.

We do not need unilateral action of the sort taken by SNP-led Stirling Council, which tried to close fairly modern care homes, although that was stopped by a public campaign. The council has cancelled support for the Independent Living Association Forth Valley and instead looked at direct payments, but without consulting the two other local authorities that are involved. It failed to repay the meal preparation charges and was one of the last councils to abolish them. I congratulate the Government on correcting that important measure, and I am sorry that it took so long for us to do it.

The elderly are a substantial and largely untapped resource and must be engaged positively on the issue of free personal care. We have consensus, we have had a largely

reasonable debate and we need to keep our joint resolve. The Labour Party is committed to continuing free personal and nursing care.

11:25

**Shona Robison:** This has been a stimulating and mainly consensual debate, with one or two notable exceptions—the usual suspects. It has served the purpose of giving the Parliament a further opportunity to have a continuing, long-term and comprehensive discussion. It does not end here; there will be other opportunities to continue the discussion and, to reassure Jackie Baillie, I tell her that we will return to Parliament with more detailed and specific proposals in an overall package of transformation for future discussion.

I will address some of the points that have been made in the debate. Ross Finnie talked about clear national priorities and outcomes. We have gone a long way to achieving those through the clear eligibility framework, for the first time with minimum standards. That was required because different local authorities were interpreting the legislation in differing ways. Murdo Fraser talked about the single budget in commissioning. I gave a clear steer in my opening speech that all those things are being considered actively as we think about how to take forward the interface between health and social care.

Christine Grahame and Sandra White made some forceful points about the attendance allowance. What is important here is not just the fact that it is not fair and we should get our money back—although that is obviously the case—but how we could then integrate and use that attendance allowance resource as part of the financial backdrop to how social care services are delivered. As we saw during the previous UK Government's debate on the future of social care and its interrelation with the benefits system, not having direct control over that is frustrating and a real impediment because, whatever action the UK Government takes and whatever changes it makes to the benefits system, or indeed the pensions system, that will impact directly on social care in Scotland. We need to ensure that the two parts of the system are joined up and that we take the opportunities to join them up in Scotland. We do not yet know the direction of travel of the new coalition Government in that arena but, under the respect agenda, we expect as a minimum that the needs of the Scottish population and Scotland's older people will be taken into account at an early stage.

I am not sure what point Marlyn Glen was trying to make. We have good national and local statistics about the demographic changes. She seemed critical of the size of the consultation document, which is a bit like spinning on the head

of a pin. We are holding meetings on reshaping older people's care the length and breadth of Scotland. If we had laid out clearly that we had already made our decision about what we wanted to do, no doubt the criticism would have been, "What's the point of a consultation when you've already made your mind up?" We are having a good consultation and the number of people turning up at the meetings speaks for itself. There has been really good engagement with older people, which I am pleased about.

**Marlyn Glen:** To clarify the point that I was making, it was RCN Scotland that called for more information. I was concerned about the lack of information that Dundee City Council seemed to have when forward planning is clearly needed.

**Shona Robison:** I have had numerous discussions with Dundee City Council and I do not share the member's perspective. The council knows well what the local demographic challenges are. We have engaged closely with Age Scotland, which has been one of the key voluntary sector bodies involved in the consultation. It signed up to the direction of travel, which I am sure remains the case.

I hope that I have been able to reassure Mary Scanlon that we are looking at the whole system, but I will write to her about the notional capital issue. I welcome Richard Simpson's sudden conversion to supporting the return of the attendance allowance; it is just a pity that he did not support it in the past eight years of the policy's delivery when he had the opportunity to do that at UK Government level, but we welcome support from whichever part of the chamber it comes.

We have made genuine progress on delayed discharge. We returned to the zero standard in April and there has been a huge improvement since the end of 2006, when 650-plus people were caught up in a hospital environment that they did not need to be in. I hope that Richard Simpson recognises the huge progress that we have made.

Free personal care was born out of a strong sense of social justice aligned with cross-party support and consensus that we have seen again today. I am keen that we do not lose sight of the principles that are enshrined in the act and the great successes that we have achieved so far with that cross-party consensus. However, each and every member in the chamber has a responsibility to embrace the reshaping and modernising of care services locally and not to stand in the way of essential service redesign, whether that is establishing a reablement home care service or a shift in the balance of care from acute sector beds to community-based services. We cannot support the theory of the policy but not the practical effect in the community. On that basis, I hope that we can all stand together and ensure that we can

really and truly deliver for the older people of Scotland.

11:31

**Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** In making the final speech in the debate, I thank everyone who has contributed to it, including my good friend Helen Eadie, whose contribution I enjoyed.

I am proud that the Parliament and all the parties are able to coalesce around what Ross Finnie referred to as a "landmark social reform". In the early days of the discussion about free personal care between the Labour and Liberal Democrat parties, I remember going to a reception in Parliament hall and meeting Henry McLeish, who said to me in an up-front way, "Yes, we will deliver this policy." Indeed he did and credit should be given to him. As to the arguments that might or might not have taken place in the Labour Party, that is for another day.

Ross Finnie said and Richard Simpson quoted him, as I will too, that

"older people in our society are an asset, not a liability".

That is exactly the right view to take when delivering the policy. It is no accident that this policy, and our doing something different from what happens south of the border, is one of the reasons why devolution is as liked and accepted as it is among the older people in our country.

Ross Finnie and many others referred to the unevenness in distribution of free personal care and that remains a key issue for us to tackle. Almost 10,000 people are in receipt of free personal care and a much greater number—45,000 people or thereabouts—receive care at home. Lord Sutherland challenged us to put in place clear national priorities and outcomes and, as Ross Finnie said, it is arguable whether they are in place. Again, that is work that we must complete. Ross Finnie concluded his speech by asking how we can drive cost out of delivery. That is another question for us all.

**Dave Thompson (Highlands and Islands) (SNP):** The member will be aware that Lib Dem-led Highland Council is today proposing to privatise five of its care homes. As Mary Scanlon pointed out, that will save money. However, it will be at the expense of the lowest-paid care workers, whose wages, pensions and sick pay will be cut by 30 per cent. Is he happy about that?

**Jamie Stone:** I anticipated that intervention from Dave Thompson. I believe two things. First, we have to trust local authorities to do their best and, in the case of Highland Council, I have no reason to think that it is not trying to do its best in an extremely difficult financial situation. Secondly,

it does not always behove MSPs to wag their finger at another democratically elected body that is trying to do its best in a tricky situation, not just for councils and the Scottish Parliament, but for the whole country.

Murdo Fraser made the point, which Mary Scanlon echoed, that functions could be transferred from social work services to the NHS or another body. The Liberal Democrats support the Conservative amendment—we are not against it—but something similar to the furore that surrounded the removal of water and sewerage services from local authority control would occur if hands were laid on the social work aspect. Moving the function to A N Other body but not the NHS would surely just duplicate the costs that are incurred at present.

In her intervention on Shona Robison, Mary Scanlon referred for the first time in the debate to the fact that a council placement costs more than a placement in the private sector. I suppose that that is connected with the intervention that David Thompson just made.

Jackie Baillie's most important point was that costs vary between local authorities. Ross Finnie referred to that difference in costs, which has been called a postcode lottery. Jackie Baillie asked the minister to agree to a debate—probably later this year—on the possible funding mechanisms, which goes back to Murdo Fraser's point.

**Shona Robison:** In the important debate on funding, can I take it that—under the respect agenda—the Liberal Democrats support our negotiations with the UK Government about the return of the attendance allowance moneys?

**Jamie Stone:** Christine Grahame put her point eloquently at the meeting between committee conveners and the Secretary of State for Scotland, Michael Moore. From his answer, I have no reason to think that he will not consider the matter and do what he can. However, we must bear it in mind—as I said in response to David Thompson's intervention—that money is not available in large quantities. I think that Christine Grahame would agree that Michael Moore's response was helpful.

Christine Grahame gave us an accurate potted history, but I must take issue with the notion that she was ever a green back bencher. When she first appeared in 1999, she was a fully formed battleship firing—

**Members:** Oh!

**Jamie Stone:** I am so sorry. I withdraw my outrageous remark.

In the same tone, I point out to my good friend Helen Eadie that Nye Bevan introduced what Mr Beveridge had designed in his report and, of

course, we all know which party Mr Beveridge belonged to—he was a good Liberal.

Helen Eadie referred to elderly people staying in their own homes, which set me thinking. I will digress and make a new point in the debate. In all my time as an MSP, I have tracked the voluntary sector's involvement and its contribution to our society in Scotland. That sector could make a further contribution. In looking after elderly people in their own homes or in whatever form of amalgamated home we eventually agree on—that relates to Mary Scanlon's speech—the voluntary sector has a role to play. When we debate the subject again, I hope that the minister will consider carefully the potential of releasing and using the voluntary sector, which gains a great sense of achievement from its work. Building in a form of recognition would be extremely useful.

Finally, from Helen Eadie's many years of worthwhile service on the Subordinate Legislation Committee, I should have thought that she had learned to trust me, of all Liberal Democrats, at any rate.

**Members:** Oh?

**Jamie Stone:** I hear doubt expressed from a sedentary position.

Marlyn Glen's speech was the last in the open debate. From what she said, I make the point—which has been made—that the rest of the UK, where the political parties cannot agree what to do, has much to learn from what we in Scotland have done. We should transmit that message loud and clear across the border. Murdo Fraser is probably correct—the English Conservatives have much to learn from the Scottish Conservatives in how to go about things.

I will draw attention to two closing speeches.

**The Presiding Officer (Alex Fergusson):** Very quickly, please.

**Jamie Stone:** Mary Scanlon's points about nursing and residential homes and about the lady with a stroke were well made. We need to sort that out. Finally, Richard Simpson made the point that elderly people may be living longer but they have long-term conditions, which has cost consequences. That is all meat to the debate that lies before us.

## Scottish Executive Question Time

### General Questions

11:40

#### Pyrolysis

**1. Elaine Smith (Coatbridge and Chryston) (Lab):** To ask the Scottish Executive whether it supports pyrolysis incineration. (S3O-11069)

**The Minister for Environment (Roseanna Cunningham):** It is not for the Scottish Government to support any individual technology. Any technology that is used to treat waste materials must comply with standards that the Scottish Environment Protection Agency sets, to protect human health and the environment.

**Elaine Smith:** I thank the minister for her not unexpected response. Is she aware that thousands of people in my constituency oppose plans to build a new pyrolysis incinerator in Coatbridge because they believe that the technology is untested and that any new pyrolysis plant would have an adverse effect on people's health and the environment? Will the Government make a statement to the Parliament on the recently published zero waste plan, which would allow members to ask questions about issues such as local environmental justice? Does the minister agree that the new environmental targets would be best achieved by Government provision of waste facilities rather than by allowing private companies to profit to the detriment, sometimes, of our communities?

**Roseanna Cunningham:** Elaine Smith knows that the Cabinet Secretary for Rural Affairs and the Environment has spoken about zero waste in the chamber and will no doubt continue to do so. She will have every opportunity to continue to ask her questions.

I advise Elaine Smith that many members deal with issues that relate to waste and incineration in their constituencies. The difficulties that she has experienced in her constituency are not unusual. I am somewhat surprised that, at a time of massive public sector cuts—with all their implications for future Scottish budgets—the Labour Party again demands an increase in public sector expenditure, which is in effect what Elaine Smith asked for. Is that to be Labour Party policy? At a time of public sector cuts, will the Labour Party continue to demand an increase in public sector expenditure? That is absurd.

**The Presiding Officer (Alex Fergusson):** Question 2 was withdrawn.

### Council Tax Freeze

**3. Sarah Boyack (Edinburgh Central) (Lab):** To ask the Scottish Executive what assessment it has made of the impact of the council tax freeze on local authority budgets. (S3O-11036)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** The council tax freeze has been fully funded by the Scottish Government since its introduction in 2008-09. To meet the commitment, we have provided councils with extra income that is equivalent to an annual increase of more than 3 per cent.

**Sarah Boyack:** I alert the cabinet secretary to my concern about my constituents' experiences. The less well-off must bear the brunt of the cuts that stretched councils must make, whereas those who are better off benefit from council tax savings. I am particularly concerned about council house tenants in Edinburgh whose rents have increased by almost 20 per cent since 2007—from £57.98 a week to £69.55 a week. Is it right that council house tenants, many of whom have minimum-wage jobs, are being asked to pay an extra £11.57 a week, while better-off people benefit disproportionately from the council tax freeze?

**John Swinney:** Local authority rents are entirely a matter for individual authorities. As for the effect of the council tax freeze on the tenants to whom Sarah Boyack referred, if they are eligible to pay the council tax, they will pay it at a reduced level from that which it would have reached if we had allowed it to increase in the fashion that the Labour Party would have preferred.

As for individuals' eligibility to pay council tax, the council tax benefit regime is in place. If individuals wish to establish whether their income justifies their receiving council tax benefit, I encourage them to take up that opportunity, which is available through the advice that the City of Edinburgh Council and other authorities provide.

**Joe FitzPatrick (Dundee West) (SNP):** From its introduction, the council tax increased by 100 per cent under the Conservative and Labour parties. Throughout that period, double-digit increases were not uncommon. I put aside those particularly high increases, but how much more would the average family in Dundee have been expected to pay if council tax had increased by a comparatively modest 3 per cent each year since 2007?

**John Swinney:** Mr FitzPatrick is correct to point out that council tax increased by a very significant amount under the previous Labour-Liberal Democrat, Labour and Conservative Governments. This Government has frozen the council tax at the level at which it was when we came into office in 2007-08. If the council tax had



increased by 3 per cent each year since 2007, a band D householder in the city of Dundee would have paid a cumulative total of £212 more in council tax payments.

#### **Air Conditioning Systems (Inspection and Maintenance)**

**4. Dr Richard Simpson (Mid Scotland and Fife) (Lab):** To ask the Scottish Executive what discussions it has had with local authorities and other bodies regarding the inspection and maintenance of air conditioning systems. (S3O-11068)

**The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson):** Article 9 of the European Union directive on the energy performance of buildings was introduced in Scotland in January 2009. The directive requires inspection, but not maintenance, of air conditioning systems. Prior to its implementation, officials held several informal meetings with local authority building standards managers. In addition, the Scottish Government engaged with professional bodies that considered that their members could undertake air conditioning inspection work. Currently, we have a protocol with five such bodies for inspection work.

**Dr Simpson:** The minister will be aware of the fact that commercial properties are responsible for 20 per cent of the United Kingdom's energy consumption and carbon emissions. The EU directive requires inspection prior to 4 January 2011. Air conditioning specialists in my constituency tell me that the rate of inspections is currently less than 5 per cent, due to underfunded and overloaded trading standards officers. Full compliance with the directive would achieve an estimated 930,000 metric tonnes of carbon savings over the next 10 years. Does the minister agree that we need to up our rates of inspection and maintenance? Will he undertake to discuss with trading standards officials the ways in which we can increase the number of inspections of air conditioning units or to explore whether other bodies could also be used to carry out inspections?

**Stewart Stevenson:** The member should be aware that the directive applies to systems with an output of in excess of 250,000kWh. There are 50 such installations throughout Scotland. I have no reason to believe that inspection of those installations will not be completed by 4 January 2011.

**The Presiding Officer:** Question 5 was not lodged.

#### **Council Tax Freeze**

**6. Michael McMahon (Hamilton North and Bellshill) (Lab):** To ask the Scottish Executive whether it remains its intention to extend the council tax freeze in 2011-12. (S3O-11058)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** The council tax freeze has provided welcome relief to hard-pressed households across Scotland. We intend to continue to provide that relief in 2011-12. We will discuss the issue with our local government partners as part of the spending review.

**Michael McMahon:** When the con act was set up a few years ago, the calculation was that £70 million per year would suffice to address the council tax increases that might otherwise have occurred. In the interim, there was a recession, which caused a reduction in incomes for local authorities that was never addressed or readdressed by the con act. This year, the trade union Unison has calculated that the recession had the impact of reducing local authority budgets by £300 million, causing 3,000 job losses. Can the cabinet secretary confirm that he intends to redress that?

**John Swinney:** It is important to separate two issues. The first is the level of support that the Government puts in place to enable the freezing of the council tax. It is impossible to take any view other than that the Government has fully funded the freeze in council tax. In some years, we have provided resources additional to the gross domestic product deflator that was set by Her Majesty's Treasury in relation to expected levels of council tax increase.

There are other issues that relate to the impact of the recession. I do not dispute that the recession has had an effect on local authority income; it has affected the economy in a variety of ways. The Government has been taking a series of measures—for which we would welcome the Labour Party's support—to encourage economic recovery and to ensure that we are able to build our way out of the economic difficulties. We are working co-operatively with our local authority partners to do that. I welcome the fact that many local authorities have taken steps to improve economic performance in their localities, given the difficult economic circumstances that we have faced in the past two years.

#### **Care Leavers**

**7. Des McNulty (Clydebank and Milngavie) (Lab):** To ask the Scottish Executive what steps it is taking to provide enhanced opportunities and more support for care leavers. (S3O-11061)

**The Minister for Children and Early Years (Adam Ingram):** The Scottish Government is committed to ensuring that care leavers have the support to access the same opportunities that those in their communities who have not been looked after have. We are ensuring that our major change programmes, especially 16-plus learning choices, prioritise the needs of looked-after young people and care leavers.

**Des McNulty:** The statistics make clear that too many care leavers suffer from educational underattainment and lack employability skills. We fall far short of best practice in the Scandinavian countries, for example. Can anything be done to improve joined-up thinking between the different agencies that deal with those young people? Will the minister consider giving care leavers who leave local authority care at the age of 16 or 17 to try out living on their own and an independent life the right to return to local authority care if that does not work out for them? Some children are getting lost after 16 as a result of trying to do things themselves.

**Adam Ingram:** We are well aware of the vulnerability of care leavers, especially at a time of economic fragility. As the member indicated, the latest stats show a fall in the number of care leavers in positive destinations. The Scottish Government has taken a number of steps on the back of that. I have written to all local authority chief executives to remind them of their responsibilities to care leavers. On 31 August, I will host a summit, along with the Association of Directors of Social Work, to discuss roles and responsibilities with all heads of children's services. On 17 June, my colleague Keith Brown, the Minister for Skills and Lifelong Learning, announced a specific set of measures to assist care leavers, as part of a summer leavers task force. Those measures include an incentive of £1,000 for up to 2,000 employers to offer a modern apprenticeship to young people who face specific barriers.

We have taken a number of other steps that I would be happy to discuss with Des McNulty. I agree with his final point about allowing young care leavers to come back when they need to.

#### **St Ninian's High School (Catchment)**

**8. Ken Macintosh (Eastwood) (Lab):** To ask the Scottish Executive what action it is taking to help East Renfrewshire Council address on-going difficulties over the catchment area for St Ninian's high school. (S3O-11057)

**The Cabinet Secretary for Education and Lifelong Learning (Michael Russell):** The catchment area for St Ninian's high school and any proposed changes to it are matters for East Renfrewshire Council. It would be inappropriate for

the Scottish Government to intervene. However, I understand that East Renfrewshire Council has established a working group to consider the issue. I will be interested to learn the outcomes of its deliberations in due course.

**Ken Macintosh:** The cabinet secretary will be aware that the phenomenal success of St Ninian's in its 25 years has created a demand for places that it is difficult, if not impossible, for the local authority to manage. Does he agree that that is an unfair situation for parents and that it creates unnecessary and unwanted anxiety in local families? Is he aware of an application to build 200 new houses not in East Renfrewshire, but in Glasgow? Does he agree that building such houses without putting in place a solution would be irresponsible? Can he assure me that the Scottish Executive will reject the application until a solution is found?

**Michael Russell:** I will at no stage regret the fact that any school in Scotland is excellent. However, the member raises an important issue. From time to time, there is pressure on all schools. Building in the environment and catchment area of a school can increase that pressure. Negotiation and collaboration are required between all the agencies involved. I will keep a careful eye on the situation.

#### **Language Skills (Five-year-olds)**

**9. Robert Brown (Glasgow) (LD):** To ask the Scottish Executive whether it is satisfied with the language skills of five-year-olds starting school. (S3O-11076)

**The Cabinet Secretary for Education and Lifelong Learning (Michael Russell):** We want all children and young people to be able to gain as much as possible from the opportunities that the curriculum for excellence can provide. The Scottish Government is satisfied that an appropriate framework is in place to ensure that every child gets the support that they need to develop their language skills.

**Robert Brown:** Is the minister aware that the I CAN organisation estimated some time ago that 53 per cent of five-year-olds starting school in Scotland do not have good enough language skills to access the primary 1 curriculum? Is he concerned that speech and language therapy services are overstretched? More particularly, is he aware of the systematic approach that the communication, help and awareness team in NHS Forth Valley takes to the issue in nursery schools? Has he evaluated that, and is he in a position to consider Government support for such projects throughout the country?

**Michael Russell:** I am aware of a range of good practice. I find the figure that the member quoted

somewhat questionable. Language skills are, of course, the underpinning skills that children need to move on. I am addressing the issue of literacy and numeracy, including the assessment of language skills, baseline assessment, and the way in which we address learning difficulties, particularly reading difficulties. All of those are rolled into two things—the approach that we take to the curriculum for excellence and, of course, the priority that we give to literacy and numeracy. I pay tribute to the work of the literacy commission in that regard, because literacy is a lifelong issue. If we can tackle in the earliest years issues of literacy and possible difficulties with acquiring language and reading skills, that will pay huge dividends in future years.

I hope that the member will watch this space, because a great deal of work and thinking are going on regarding the matter.

**Christine Grahame (South of Scotland) (SNP):** I refer the cabinet secretary to the Health and Sport Committee's 2009 report on child and adolescent mental health and wellbeing, and in particular to the evidence from speech therapists on the impact of communication skills on the socialisation skills of our very young children. Will he look at our recommendations, particularly on training to help nursery staff to identify any communication difficulties in their charges as early as possible?

**Michael Russell:** I certainly believe that early intervention is the key to a great deal of what we are trying to achieve collectively as a Parliament and as a nation. We had a successful event yesterday called the children's summit in which we brought together those who are involved in early intervention and early years provision to ensure that we keep our focus on those areas so that we can continue to improve the life chances of every child in Scotland. The good point that the member makes will be borne in mind during that process.

**Abdelbaset Ali Mohamed al-Megrahi**

**10. George Foulkes (Lothians) (Lab):** To ask the Scottish Executive what recent discussions it has had with officials in Libya concerning the situation of Abdelbaset Ali Mohamed al-Megrahi. (S3O-11043)

**The Cabinet Secretary for Justice (Kenny MacAskill):** There has been only routine contact between Scottish Government officials and Libyan Government officials relating to the supervision of Mr al-Megrahi's licence under section 3 of the Prisoners and Criminal Proceedings (Scotland) Act 1993.

**George Foulkes:** Does the cabinet secretary accept that it is now more than 10 months since he agreed to release Mr al-Megrahi on

compassionate grounds on the basis that he had less than three months to live? How long will it be before the cabinet secretary admits that he made a mistake?

**Kenny MacAskill:** Mr al-Megrahi is terminally ill. I hope that, when he dies, it offers some closure to victims, families and those concerned with the Lockerbie tragedy, wherever they reside. Doubtless it may even offer some satisfaction to some, perhaps even including Lord Foulkes.

**Christine Grahame (South of Scotland) (SNP):** On closure, will the cabinet secretary continue to press the United Kingdom coalition to hold a public inquiry into the Lockerbie bombing so that the concerns about the safety of Mr Megrahi's conviction that were identified by the Scottish Criminal Cases Review Commission can at last be publicly tested?

**Kenny MacAskill:** The Government has always made it clear that we will be more than happy to co-operate with any authority and jurisdiction that is capable of carrying out some investigation. There are clearly matters that cause concern to many, whether within Scotland or elsewhere. The Government remains open to providing whatever information we can and co-operating with whoever, whether it is the UK or indeed the United Nations.

**Bill Aitken (Glasgow) (Con):** Does the Cabinet Secretary for Justice agree that Lord Foulkes cannot be accused of hyperbole on this occasion in that the original prognosis in respect of Mr Megrahi was made in July last year, which is rapidly coming up to one year ago? Surely the cabinet secretary must accept that that is a clear indication that the original decision was wrong and that it remains wrong to this day. Will he not admit that, in this episode, over which there has been so much trouble, his judgment has been shown to be sadly lacking?

**The Presiding Officer:** Please respond as briefly as possible, cabinet secretary.

**Kenny MacAskill:** As I said at the time, I stand by the decision that was made.

## First Minister's Question Time

12:00

### Engagements

**1. Iain Gray (East Lothian) (Lab):** To ask the First Minister what engagements he has planned for the rest of the day. (S3F-2496)

**The First Minister (Alex Salmond):** I have a range of engagements to carry forward the Government's programme for Scotland.

**Iain Gray:** The Tories' savage budget will hit Scotland hard. *[Laughter.]*

**David McLetchie (Edinburgh Pentlands) (Con):** Labour cuts.

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

**Iain Gray:** I assure colleagues opposite that they are the only ones who are laughing.

Nicola Sturgeon was right to complain that the VAT bombshell in the budget will cost our national health service £26.5 million, but she could do something: she could get Alex Salmond to cancel his rates revaluation, which will also cost our NHS millions—£1 million in Grampian alone. That has been done in Northern Ireland. Will the First Minister do it here?

**The First Minister:** No. A business rates system must be subject to revaluation, otherwise we could not sustain a rateable system. As Iain Gray knows from previous discussions, the substantial majority of businesses throughout Scotland will be no worse or better off as a result of the rates revaluation. Our system of rates, through the variety of packages of aid and reliefs that we offer in Scotland, is superior to that anywhere else in these islands. If, in addition to it, Iain Gray wants us to introduce a further scheme, as was suggested by the Liberal Democrats a few weeks ago, he had better identify where the public funds would come from.

**Iain Gray:** If the rates revaluation system is income neutral, as the First Minister told me two weeks ago, the measure that I propose would help the NHS and would not cost him anything at all.

What about our games industry? The budget cancelled Labour's tax break for the industry. The Scottish National Party says that that will cost 200 jobs in Dundee, and I think that it is right, but let us not just complain—let us actually do something for a change. John Swinney told us yesterday that he has £300 million in the bank. We can take £5 million of that—equivalent to the tax break—and find a way to support the games industry anyway.

Let us save those 200 jobs, despite the Tories and the Liberals. Will the First Minister do that?

**The First Minister:** I will first correct Iain Gray on business rates. What I told him a few weeks ago is that revaluation is essentially a neutral process. What that does not take account of is the additional move that the Scottish Government made to reduce the rateable poundage by 15 per cent and bring it down, for the first time in history as far as I know, into line with the rateable poundage for England and Wales. That is a cost of £200 million in addition to all the other reliefs that are available. I am sure that Iain Gray would not want to ignore the fact that reducing the rateable poundage helps every business and, indeed, every public sector organisation, including the health service in Scotland.

As far as the games industry is concerned, I deeply regret that the Government in Westminster has chosen to cancel the proposed tax relief and I agree that it is a short-sighted decision. I think that the centre of the games industry in Scotland is a jewel in the crown of Scottish industry; it is fantastic for the city of Dundee and I cannot see that it is sensible to jeopardise that performance. I thought that the Independent Game Developers Association—TIGA—the representative body for the games industry, put forward a powerful case for why that particular tax concession, or another tax concession, if one can be identified, could substantially help to generate jobs, employment and, therefore, revenue over the medium term.

Iain Gray says that we should act on the games industry. It might be instructive to look at what the industry itself is saying about the setback in the budget. Richard Wilson, the head of TIGA, which is an excellent trade body, says that the Scottish Government should have tax-raising powers, so that it can protect the games industry and introduce such a tax incentive. If the games industry is calling for that, when on earth will the Labour Party realise that we must have fiscal responsibility so that we can boost our industry?

**Iain Gray:** The First Minister is an awful lot better at explaining what he cannot do than he is at explaining what he can do and why he chooses not to do it.

What does someone have to do to get help from the Scottish Government? They have to put on a kilt and call themselves a clan chief. Then they can have a secret, interest-free loan, with no questions asked. Here is the best bit: they do not even need to pay it back; they just need to promise the First Minister a photo opportunity in a beaver hat and name their price. What do the NHS, the games industry and businesses that are not The Gathering 2009 Ltd have to do to get action from the First Minister?

**The First Minister:** Given Iain Gray's passionate concern for the tourism industry in Scotland, I know that he will not want to ignore that the gathering event generated £8 million in revenue for our tourism industry in the city of Edinburgh and £10 million across Scotland.

No doubt that is what the Auditor General for Scotland, Robert Black, was thinking of yesterday when he told the Public Audit Committee, in relation to the decision to award the loan:

"clearly time was not on anyone's side by the summer of last year, because the event was committed and was about to proceed. The Scottish Government"

took

"the not unreasonable view that in order to allow the event to proceed it should assist the short-term cash flow problems of the company delivering the event."

I have no doubt that the Auditor General made that remark in response to questions from the committee because he realised that it would have been a bad thing for jobs in Scotland and a blow to the tourism industry in Scotland to cancel an event that turned out to generate £10 million for the Scottish economy. If Iain Gray wants to complain retrospectively about the decision, it behoves him to explain to the visitor and tourism industry in Scotland where it would have got the £10 million that the Labour Party wanted to deny it.

**Iain Gray:** I do not expect that the First Minister wants to ignore the fact that Edinburgh businesses appeared on the news last night, explaining how they had had to make people redundant because of the mishandling of the event by his Government. I hear nothing from him about what he will do to help them.

Audit Scotland's report, "The Gathering 2009", shows that the First Minister can take action when it matters. It shows that he spent a month cold calling everyone he could think of, to try to get them to buy up his bad debts on the clan gathering.

One phone call today could cancel the small business bombshell and help the NHS. One more call could put £5 million of support into our games industry in Dundee. Those are the kind of calls that a real First Minister makes. I will even lend him my phone. Will he make the calls?

**The First Minister:** Iain Gray's phone is not the best prop that we have seen at First Minister's question time.

I point out to Iain Gray that the reason for the attempt to find someone to take over the gathering event was precisely to help the small businesses about which he says that he is concerned. I do not quite follow his argument. If he is concerned about those businesses, why does he criticise the

attempt to have the gathering taken over? His position makes no logical sense whatsoever.

Iain Gray should, at some stage, face the reality of what was published this week about the finances affecting the health service and every other public authority in Scotland on page 16 of the budget report. It shows that £83 billion of cuts by 2014-15 are planned by the coalition Government at Westminster. It also shows for the first time that £52 billion, or two thirds of the proposed cuts were embedded in the Labour Party's plans. Jobs will be lost in Scotland as a result of the coalition Government's cutbacks, and the loss of two out of three of those jobs will be the result of the destruction of this country's finances by the Labour Party. For every £3 million that is cut from every public service in Scotland, including the NHS, £2 million is the responsibility of the Labour Party. It is no good whatsoever—Iain Gray being a one-party, one-man political cycle—to cause the problem, destroy the country's public finances and then to blame everyone else for the consequences.

### Secretary of State for Scotland (Meetings)

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

To ask the First Minister when he will next meet the Secretary of State for Scotland. (S3F-2497)

**The First Minister (Alex Salmond):** I have no plans to meet the Secretary of State in the near future.

**Annabel Goldie:** The First Minister has always demonstrated a casual and arrogant attitude to taxpayers' money. Time and again I have challenged him to be more responsible with the public's cash, and time and again he has rejected my advice, which is why the Conservatives have forced the Government to be more open with the taxpayer. Unfortunately, that was not the case as far as the gathering was concerned, and taxpayers certainly deserve some honesty today.

We know from the devastating Audit Scotland report that the Scottish Government made a secret loan of £180,000 to a company that is now in liquidation. When did the First Minister find out about that secret, interest-free loan? Did he authorise it? Was it his idea? If it was kept secret from him, does he now back the actions of his then Minister for Culture, External Affairs and the Constitution, Michael Russell? Was the loan even legal? Will he now apologise to the taxpayer for the whole sorry mess?

**The First Minister:** As was pointed out in the Audit Scotland report, we awarded support for the company under section 23 of the National Heritage (Scotland) Act 1985, so support for such events is legal.

The figures of £10 million for Scotland and £8 million for the boost in tourism revenue come from an independent assessment of the gathering's impact on tourism. If Annabel Goldie wants to argue that officials were wrong to recommend the loan to the Minister for Culture, External Affairs and the Constitution and that he was wrong to decide to go ahead with the loan—to answer her question directly, I knew about it at the time—she will have to explain why she did not want the event to proceed. The loan was necessary if the event was to proceed because the company had cash flow difficulties and, without it, the event would not have gone ahead. If the event had not gone ahead, Scottish tourism would be £10 million worse off. Why on earth does Annabel Goldie think that it was such an unambiguously bad thing to ensure that an event that attracted so many visitors should go ahead?

**Annabel Goldie:** The homecoming and the gathering were good ideas with good aims, but a laudable concept does not justify the Scottish Government playing fast and loose with taxpayers' money. Let us look at who has lost out because of the mess: the police, the ambulance service, more than 100 small businesses and the taxpayer.

Quite frankly, the whole thing stinks, because the First Minister will not come clean about the secret loan. He says that he knew about it, but he will not say when he knew about it. He says that it was legal, but he will not give details of the legal advice that the Government received. He did not tell the steering group, he carried out no financial checks, but he still pumped in taxpayers' cash. Why such a casual and arrogant attitude to the taxpayer? Will he come clean today? Will he tell the Parliament whether his Government has made any other secret loans to any other organisations?

**The First Minister:** Annabel Goldie should have listened to the answer to the first question before she blundered ahead with the second. I specified the act under which support was granted. I also confirmed that I knew about the loan. Of course, officials also told EventScotland, which chaired the steering group that Annabel Goldie referred to, about the loan. The culture minister approved the loan. Without the loan, the event would not have proceeded, which is presumably why, in evidence to the Public Audit Committee on 23 June, the Auditor General supported the fact that the loan was given.

I think that it is justified to support events that without any question generated substantial revenue and therefore jobs for the tourism industry of Scotland.

If Annabel Goldie is suggesting that I had some connection with the directors of The Gathering 2009 Ltd, I gently remind her that Lord Sempill—if

my memory serves me correctly—once stood as a Conservative party candidate.

### **Cabinet (Meetings)**

**3. Tavish Scott (Shetland) (LD):** To ask the First Minister what issues will be discussed at the next meeting of the Cabinet. (S3F-2498)

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

**Tavish Scott:** The gathering issue is about the financial behaviour and accountability of the First Minister's Government. Can the First Minister confirm that The Gathering 2009 Ltd went bust with debts exceeding £0.75 million? Can he tell the Parliament how many Scottish businesses, including a major catering company in Perth, are still owed money? Some told me this morning that they have had to lay people off. Why, in particular, did the First Minister give the impression—or allow the impression to be given—to all the Scottish companies that were putting money into the event that their investment was safe and that his Government would pick up the tab?

**The First Minister:** I am not quite sure whether the argument is that the Scottish Government should have picked up the tab or that it should not have supported the event financially.

On the particular issue that is under discussion—the loan that was offered to and accepted by The Gathering 2009 Ltd, and approved quite properly under the relevant legislation—I point out to Tavish Scott that if the gathering had not proceeded and if the loan had not been offered, none of the revenue that was collected for the event would have come into the company, although substantial expense had already been made at that stage. Believe me, it would have been a bad thing for not just the economy of Scotland and Edinburgh, but companies across Scotland and Edinburgh, if the event had not proceeded. Those who criticise the offer of a loan to The Gathering 2009 Ltd had better come to terms with the fact, as Robert Black did in evidence yesterday, that in the circumstances at this time last year, that was perfectly proper and a “not unreasonable” thing to do.

**The Presiding Officer:** Tavish Scott. Try again.

**Tavish Scott:** Mr Salmond just never answers a question. I asked three simple questions, but he does not want to answer any of them. Let me try some other questions. When Mr Salmond's Scottish National Party Government authorised the £180,000, did ministers know that The Gathering 2009 Ltd was on the verge of bankruptcy? Did ministers ask whether the company was trading from an insolvent position?

Does the First Minister recognise that that is a criminal offence? Does he recognise that any private business trading insolvently would be investigated by the tax man and could face legal proceedings? Does he accept that many Scottish businesses that are still owed money want a full regulatory investigation into not only The Gathering 2009 Ltd, but the conduct of his Government? Will he ensure that that happens, or will he obstruct an independent investigation?

**The First Minister:** I will take those questions in order. The loan to The Gathering 2009 Ltd was to address the fact that World Pay was holding a similar sum of gathering revenue that had been collected. Those were the specifics of the financial reason for offering the loan to help with the cash flow position.

If Tavish Scott had examined the Auditor General's report, he would have seen that the reason for the financial failure of The Gathering 2009 Ltd was that it did not generate the anticipated revenue over the weekend that was in its forecasts. By definition, how on earth could we have known, before it had not gathered in the forecast revenue, that the company would become insolvent? That is why, no doubt, Robert Black said what he said yesterday—that it was a “not unreasonable” thing to do.

The Auditor General for Scotland is the independent investigator. When, after an independent investigation, the Auditor General—the independent authority—says to the Public Audit Committee:

“time was not on anyone's side by the summer of last year ... the event was committed and was about to proceed. The Scottish Government”

took

“the not unreasonable view that in order to allow the event to proceed it should assist the short-term cash flow problems of the company”,

why on earth can the Liberal Democrats and Tavish Scott not accept the results of that independent investigation?

**The Presiding Officer:** Tavish Scott, you have one more chance.

**Tavish Scott:** The First Minister is right about the public sector and Audit Scotland, but not about the private businesses throughout Scotland that are still in debt. Will he block an investigation by an independent regulatory body—HM Revenue and Customs or the Department for Business, Innovation and Skills in Whitehall—into why those private businesses are still in debt?

**The First Minister:** The body that the Parliament established many years ago to look at and investigate independently points of public interest in finances is called Audit Scotland. When

the Auditor General goes to a parliamentary committee and makes the comments that I have quoted a number of times, why will the people who called for that investigation not accept the results?

**Tavish Scott:** He knows why.

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** He should answer the question.

**The Presiding Officer:** Order, gentlemen.

**The First Minister:** Having a third attempt at a question does not mean that the third question will be any better than the first two. The remarkable aspect of the story is that the Liberal Democrats called for the Audit Scotland investigation. Now, having had the results of Robert Black's investigation and having heard his comments yesterday, why can they not accept the verdict, response and detail of that Audit Scotland report?

### Emergency Budget

**4. Kenneth Gibson (Cunninghame North) (SNP):** To ask the First Minister what the implications of the emergency budget are for Scotland. (S3F-2499)

**The First Minister (Alex Salmond):** The United Kingdom emergency budget statement outlined the stark reality of the UK public finances left by the previous UK Government and, therefore, the sobering outlook for public spending and taxation.

Throughout Scotland, the impact of Tuesday's announcements will be significant and will have implications for many years to come. The tax rises that the chancellor announced will impose costs on every household in Scotland, with the VAT increase alone forecast to cost an average household £380 per annum.

At the same time, we face huge constraint in public spending for at least the next four years and probably much longer. The exact implications for Scotland will not be known until the autumn spending review, but the scale of the challenge is shown by the chancellor's indications for real-terms reductions in non-protected Whitehall budgets of 25 per cent over the next four years.

In my view, and that of the Scottish Government, cutting back faster and deeper than previously planned, with the additional £32 billion of spending cuts on top of the £52 billion that the previous Labour Government planned, puts economic recovery and jobs at risk. The position that we now face clearly highlights the urgent need for Scotland to take greater financial responsibility to give us the levers in order to grow the economy and best protect our vital front-line services.

**Kenneth Gibson:** The latest “Government Expenditure and Revenue Scotland” report shows us to be in a much stronger fiscal position than the

UK as a whole, with a budget surplus of £3.5 billion over the past four years, compared with a UK deficit of £72.3 billion. Does the First Minister agree not only that Scotland is in a position to accept greater fiscal responsibility by way of a few modest powers reluctantly conceded by London some time in the future, but that the time is now right for Scotland to have full control of all its resources, including oil and all taxation and spending—that it is now time for independence? [Applause.]

**The Presiding Officer:** Order.

**The First Minister:** It is remarkable that there are parties in the Parliament that seem disappointed at the statistical analysis of GERS, which shows that the budget balance in Scotland is positive for the fourth successive year—a positive balance of £1.3 billion in 2008-09, which gives a total of £3.5 billion over the four-year period—at a time when the UK built up a deficit of £72.3 billion.

It would be sensible for people across the chamber to reflect on the fact that that is a position that everyone in Scotland should welcome and should feel satisfied and pleased about, although it points up the fact that we do not get the benefit of those massive resources because that budget surplus flowed straight from Scotland to the UK Treasury in London.

#### Cancelled NHS Operations (Statistics)

**5. Helen Eadie (Dunfermline East) (Lab):** To ask the First Minister whether the Scottish Government is satisfied that published figures on the number of cancelled national health service operations provide an accurate picture. (S3F-2510)

**The First Minister (Alex Salmond):** Some 98.5 per cent of all NHS procedures take place as planned. Data on the number of cancelled operations by the national health service show that in 2008-09, from a total of 1,159,145 hospital stays, some 15,913 operations were cancelled, which is a rate of 1.37 per cent. That is the same rate as in Labour's final year in office. What has changed over that period, I am proud to say, is that the number of procedures that were carried out in NHS Scotland in 2008-09 was more than 800,000, which is the highest total since devolution and an increase of almost 40,000 since 2006.

**Helen Eadie:** Is the First Minister aware that, according to my local health board, more than six times as many operations were cancelled by hospitals in the NHS Fife area than were cancelled through patients not attending, yet only a fraction of those show up in the Scottish Government's official figures, which count only patients who have

already been admitted? Will he give an assurance that all the 20,000-plus operations in the past three and a half years that have been cancelled by hospitals throughout Scotland, including some 4,000 operations in Fife, will not be swept under the carpet? Will he end this hidden waiting list?

**The First Minister:** I do not think that Helen Eadie should talk about things being swept under the carpet in the context of statistics in the NHS. As she might remember, this Government has abolished Labour's hidden waiting lists, which indeed swept things under the carpet.

The information on patients not attending has never been published by the NHS until now. It was never published all through the years of Labour control, as Helen Eadie might wish to remember. However, I am delighted to say that that information is now being collated. The figures for nine months, from 1 July 2009 to March 2010, show that 9,541 patients did not attend their appointment. All of us should agree that that is a serious issue. Equally, I hope that Helen Eadie will agree that we should welcome the fact that the data are now being collated for the first time, which seems to me to be one of the prerequisites for action to try to reduce that figure.

**Ross Finnie (West of Scotland) (LD):** If Helen Eadie is correct and the total number of cancelled NHS operations is understated, does that mean that the cost of cancellations is also understated? If so, by how much?

**The First Minister:** Given that the data have only just started to be collated, it follows that that question is impossible to answer until the data are fully collated. I am sure that Ross Finnie will join me in welcoming the initiative to collect those data.

#### Research Institutes (Funding)

**6. Liam McArthur (Orkney) (LD):** To ask the First Minister what steps the Scottish Government is taking to ensure that the Moredun Research Institute and other research institutes in Scotland are best placed to secure future funding from the European Union research framework programme and elsewhere. (S3F-2508)

**The First Minister (Alex Salmond):** I welcome that positive and well-timed question.

The Scottish Government is well aware of the global reputation for excellence of our research institutes. They receive about £50 million per annum from the Scottish Government and we work with other research funders to secure additional funding and to ensure that our research institutes are well positioned to secure European funding. I am sure that the member will join me in welcoming Richard Lochhead's announcement on Tuesday of a €9 million research grant—the largest-ever grant awarded by the European Union



in the field of animal health—that the Moredun Research Institute will co-ordinate, from which it will receive almost €1 million. The Government is firmly behind the global achievements and reputation of the Moredun Research Institute. Although we all face challenges in these difficult times, our commitment to that expertise remains absolute.

**Liam McArthur:** I thank the First Minister for his commendation of my question.

Over the past 15 years, animal disease has cost the UK economy around £15 billion. The Moredun Research Institute is engaged in research that in future could reduce that figure by a quarter, so although the record grant that it secured this week is richly deserved and is testimony to the continued excellence of our world-class research base, we dilute that excellence at our peril.

The First Minister will be aware of the serious concerns that researchers, vets and the Scottish agricultural industry have raised about his Government's approach to future scientific research funding. It has been suggested that that approach

“could undermine the pioneering efforts of the Scottish livestock sector in the area of animal health.”

Can the First Minister therefore confirm that his Government will not now seek to flatten and broaden the research that Moredun carries out? Will he undertake to ensure that collaboration across the sector is not achieved by squandering the specialist excellence that delivers real economic value for Scotland, which has the potential to leverage in the sort of record grant award that we have seen this week?

**The First Minister:** I will deal with the question in two ways. As I said, the research institutes receive funding of £50 million a year from the Scottish Government. We intend to continue that level of funding over the period to 2016, subject, of course, to the spending review.

I am sure that, like all other Liberal members, the member will wish to join me in explaining to the new Chief Secretary to the Treasury how important that vital funding is on that and other matters, and I am sure that he will acknowledge and accept that, given that the Chief Secretary to the Treasury is a member of his political party, the days of absolving the Liberals of responsibility are over.

As far as the Moredun Research Institute is concerned, I indicated how much I appreciate its work, so it is only appropriate for me to quote John Jeffrey, the institute's chairman, who said yesterday:

“Moredun's international reputation for livestock health research is only possible because of the investment by the

Scottish Government ... into maintaining the skills and facilities that are based at our site in Midlothian. I am delighted that Moredun can continue to deliver practical outputs that are needed by farmers, veterinary surgeons, processors, retailers, and the public, not only in Scotland but across the world”.

The member's question was well timed indeed, given the excellence of Moredun and the magnificent boost that it received only this week.

**David Whitton (Strathkelvin and Bearsden) (Lab):** On a point of order, Presiding Officer. I am sure that the First Minister would not wish to mislead the Parliament. He claimed that the GERS figures showed that Scotland was in surplus, but they do that only if spending on schools, hospitals and roads is not included. It is not that long ago that the SNP was claiming that the GERS figures were fiddled; he is the one who is fiddling them.

**The Presiding Officer:** I think that Mr Whitton knows that that is a debating point and not a point of order for me.

12:32

*Meeting suspended until 14:15.*

14:15

*On resuming—*

## Scottish Executive Question Time

### Health and Wellbeing

#### NHS Lanarkshire (Capital Funding)

##### 1. Cathie Craigie (Cumbernauld and Kilsyth)

**(Lab):** To ask the Scottish Executive when it will provide capital funding to NHS Lanarkshire to allow progress to be made in improving primary health care facilities in Cumbernauld and Kilsyth. (S3O-11040)

**The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon):** NHS Lanarkshire is given an annual formula capital allocation. It is for the board to identify its capital spending requirements and prioritise them in line with the available resources.

**Cathie Craigie:** Will the cabinet secretary bring pressure to bear on Lanarkshire NHS Board to carry through the commitment that it has given to people in Cumbernauld and Kilsyth to provide a new health centre in Kilsyth? The board is not meeting the community's needs. It promised to provide a primary care function in Cumbernauld, which it has not yet provided for. Will she intervene to encourage the board to meet the commitments that it has made to my community?

**Nicola Sturgeon:** I hope that I can reassure Cathie Craigie that Kilsyth health centre remains a development priority for NHS Lanarkshire. She and other members might be interested to know that eight of the 16 capital projects included in "A Picture of Health: A Framework for Health Service Provision in Lanarkshire" were due to be completed by 2013. Seven of those projects definitely will be completed by 2013. Planning for the eighth project, which is the north mental health in-patient unit, is on-going. The board envisages that it will also be completed within that timescale.

Boards have invested heavily, and continue to invest heavily, in community and primary care infrastructure, but no member can escape the reality that projections in the previous Chancellor of the Exchequer's pre-budget report in November 2009 showed quite significant capital reductions right across the United Kingdom. That has an impact on health boards. It is therefore incumbent on them to ensure that they are planning to meet the needs of local communities through capital investment within the available resources. The Government will continue to support them to do exactly that.

**Jamie Hepburn (Central Scotland) (SNP):** The minister will be aware that, as a result of Tuesday's budget, NHS Lanarkshire will have to pay its share of NHS Scotland's £26 million extra costs in VAT from next year. That will remove potential national health service capital funding for Cumbernauld and Kilsyth and beyond. Does she share my disappointment that one reason for that was the Labour Party's refusal to countenance the formation of an anti-Tory coalition in London and the subsequent infliction of a Tory Government on the people of Scotland?

**Nicola Sturgeon:** Yes, I do. People throughout Scotland will be absolutely dismayed that Labour has ushered in another Conservative Government, which nobody in Scotland wanted.

**Murdo Fraser (Mid Scotland and Fife) (Con):** Not nobody; 17 per cent of people wanted it.

**Nicola Sturgeon:** I leave it to Murdo Fraser to point out how few people in Scotland wanted a Conservative Government.

People are well aware that there was an alternative. We know that Labour was not prepared to explore seriously that progressive alternative, and people in Scotland will make their own judgment on that at the next opportunity.

#### Caithness General Hospital (Maternity Services)

**2. Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** To ask the Scottish Executive what assurance it can give that the consultant-led maternity services at Caithness general hospital in Wick will be safeguarded for future years. (S3O-11088)

**The Minister for Public Health and Sport (Shona Robison):** NHS Highland has confirmed that it has no plans to change the maternity services that are delivered from Caithness general hospital in Wick.

**Jamie Stone:** It is clear that the challenges—dangers, even—that are presented by, for example, the distance to Raigmore hospital and severe winter weather render any notion of increasing the number of mothers who have to travel to Inverness, which is a journey of more than 100 miles each way, quite unthinkable. Several proposals have been made in the past to downgrade the consultant-led maternity services that are based in Caithness general hospital, but in each case, people pressure and the highlighting of the dangers to mothers and babies that would be presented by any such downgrading have won the day. I need an assurance that the minister understands where we are coming from in the far north, that the consultant-led services that we have now are the most appropriate for such a remote area, and that if the downgrading proposal

were ever resurrected, she would make it clear that it would be entirely unacceptable.

**Shona Robison:** There may well have been proposals to downgrade the maternity services that are delivered from Caithness general hospital in Wick, but there are no such proposals under this Scottish National Party Government. I hope that that gives the member the clear answer and reassurance that he asked for.

**Rob Gibson (Highlands and Islands) (SNP):** Can the minister help us in relation to issues of consultant recruitment at Caithness general hospital? The hospital does not have the full complement of consultants, and the use of locums is expensive. Is any attempt being made to help rural general hospitals get permanent, full-time staff?

**Shona Robison:** Yes. Rob Gibson highlights a challenge that many hospitals face in trying to recruit, particularly where they are trying to recruit specialists from a small pool of people who are in short supply. As I am sure he is aware, a lot of work is under way to make rural general hospitals more attractive to consultants. As part of the action that we are taking, we are ensuring that people are supported and linked to some of the bigger hospitals. That gives them experience and keeps their skills up to date. We believe that our action has led to health boards being better able to recruit consultants to hospitals, no matter whether the hospital is in Wick or another part of rural Scotland. We are not complacent about the issue; we need to keep it under constant review.

#### **NHS Greater Glasgow and Clyde (Meetings)**

**3. Patricia Ferguson (Glasgow Maryhill) (Lab):** To ask the Scottish Executive when ministers last met the chief executive of NHS Greater Glasgow and Clyde and what issues were discussed. (S3O-11042)

**The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon):** Both ministers and Scottish Government officials meet regularly senior officials from NHS Greater Glasgow and Clyde to discuss issues of importance to local people.

**Patricia Ferguson:** I welcome the target that the minister has set of a 50 per cent reduction in hospital-acquired infection rates among the over-65s. In her discussions with Mr Calderwood, did she say how she expects NHS Greater Glasgow and Clyde to implement the new initiative to reduce infection rates, given the planned loss of some 1,200 staff across the board area and the loss of 500 cleaning hours at Glasgow royal infirmary alone?

**Nicola Sturgeon:** Members who are familiar with my position on tackling health care associated

infection in hospitals will know that I prefer to keep the issue clear of party politics. Frankly, it is too important for that. In her question, Patricia Ferguson betrays a lack of understanding of the real progress that NHS Greater Glasgow and Clyde—and, indeed, every health board across Scotland—is making in reducing infection rates and of the measures that are already under way. It is clear that she also misses the fact that this Government has substantially increased the resources that are available for fighting infection in comparison with the resources that the previous Government committed. That is simply a fact.

Staff in the health service and those who manage the service deserve great credit for the work that has been done to reduce infection rates dramatically. Both *Clostridium difficile* and MRSA rates are at their lowest level since records began. That is to be welcomed. The situation has been brought about by a combination of initiatives, including a focus on hand hygiene, the new inspectorate that is now inspecting standards in hospitals and the focus on antimicrobial prescribing, which is perhaps the most important thing in terms of *C difficile*.

Just this week, we announced £1.5 million for a new bed management system. I do not always agree with the Tories, but the new system came about because of a constructive proposal, rather than sniping from the sidelines. I hope that all of us in the chamber will now get together and back up the efforts of our staff to drive down hospital infection rates further.

#### **National Health Service Board Elections (Pilot)**

**4. Elaine Murray (Dumfries) (Lab):** To ask the Scottish Executive what criteria it will use to assess the pilot national health service board elections that took place in Dumfries and Galloway and Fife on 10 June 2010. (S3O-11063)

**The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon):** The key criteria that will be used to assess the pilot elections are set out in the Health Boards (Membership and Elections) (Scotland) Act 2009. The criteria are: the level of public participation in the health board elections; whether having elected members on health boards will lead to increased engagement with patients and other members of the public and improved local accountability; the cost of holding the pilot elections; and the estimated cost of holding future elections in all health board areas. The act requires that the assessment be carried out as part of an independent evaluation, the results of which we expect to lay before Parliament in the autumn of 2012.

**Elaine Murray:** Does the cabinet secretary share my disappointment that only 22 per cent of

the electorate of Dumfries and Galloway voted on 10 June, despite its being an all-postal ballot? One of the points that my constituents have made to me is that having to read through the biographies of 70 candidates for 10 places was rather off-putting. Should the pilots be rolled out elsewhere, I wonder whether consideration might be given to voting on a ward basis, particularly in rural areas, or to requiring candidates to have a certain number of supporting nominations.

**Nicola Sturgeon:** Those are perfectly valid suggestions. The reason for piloting health board elections was to examine the experience and see whether there are ways of doing them differently or better in the future. I am sure that Elaine Murray's suggestions will be fully taken into account by Parliament before it makes a decision on whether to roll out the elections.

I will just make a few further points. First, we should all congratulate those who have been elected to the health boards in Dumfries and Galloway and Fife. Their election means that those health boards are more representative now of the communities that they serve than was the case previously. Secondly, I agree that having such large numbers of candidates meant that there were many for people to choose from and that a lot of reading had to go with that. However, I take the view that it is actually a good thing that there were so many candidates—it is a sign of the interest that there is in the running of our health service. Thirdly, of course I would have wanted turnout to be higher, but I think that about many, if not all, elections that we have in this country. I voted in a local government by-election just a couple of years ago where the turnout was 20 per cent. We all have to encourage higher turnout, but perhaps the experience of health board elections and the increased interest that will be engendered in the running of our health service will lead to higher turnouts, should the elections be rolled out in future.

**Ross Finnie (West of Scotland) (LD):** The cabinet secretary will recall that during the passage of the Health Boards (Membership and Elections) (Scotland) Bill, she indicated that she might be prepared to consider other forms of structure and experiment. Can she indicate to Parliament today when she might undertake those other experiments and, indeed, whether she will do so at such a time that they can be assessed alongside the elections to which Elaine Murray referred?

**Nicola Sturgeon:** Ross Finnie may be interested to know that the non-statutory pilots, as we call them—rather than experiments—are already under way. One of the new, non-executive members appointed to the board of NHS Lothian was drawn from a local patient-public forum. I am

more than happy to give members a full progress report on where the non-statutory pilots have got to. However, members who paid close attention to the passage of the bill will know that the non-statutory pilots will be fully evaluated in parallel with the elected boards.

### **Front-line Health Workers (Protection)**

**5. Duncan McNeil (Greenock and Inverclyde) (Lab):** To ask the Scottish Government how it will ensure that front-line health workers are protected from violence in the workplace. (S3O-11059)

**The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon):** Violence or abuse against any health care worker is unacceptable and should not be tolerated. That is why we extended the Emergency Workers (Scotland) Act 2005 in 2008 to ensure that doctors, nurses, midwives and ambulance workers are protected from obstruction, abuse or hindrance whenever they are on duty. The applicable penalty is up to 12 months' imprisonment or a £10,000 fine, or both.

**Duncan McNeil:** I welcome the cabinet secretary's response and concur with her view that it is a very serious problem that needs to be dealt with. While I welcome the measures to which she referred, I am concerned that, out of the 65 incidents at Inverclyde royal hospital last year, just 25 resulted in a court appearance, and there were only 17 convictions. Does she agree that those depressing facts send out the wrong message to those who see health workers as a soft target? Will she discuss this unacceptable situation with her colleague the Cabinet Secretary for Justice to ensure that those who abuse and use violence against our nurses and doctors will, indeed, face the full consequences of their actions before our courts?

**Nicola Sturgeon:** I agree with Duncan McNeil that anybody who perpetrates violence against, or abuses, health care workers deserves to suffer the full consequences of their actions. It is behaviour that I am sure nobody in the Parliament and the vast majority of people outside it can even begin to understand. To abuse or commit violent acts against those who are there to help people and, in some cases, save lives is just beyond comprehension.

As Duncan McNeil is aware, decisions about prosecutions are not for me or even for the Cabinet Secretary for Justice. Our prosecution system is independent and under the aegis of the Crown Office. However, I am sure that all members will want to send the strongest possible message to anybody who is thinking of committing such acts against health care workers that that behaviour should not be tolerated. I would be happy to do or say anything within my powers to

continue to encourage a culture of zero tolerance against anybody who commits such acts against health care workers.

**Nigel Don (North East Scotland) (SNP):** Does the cabinet secretary believe that we get 100 per cent reporting? I suspect that many professional people will not report other than very serious incidents and that a vast number of such acts may go unreported, which we should be getting to the bottom of.

**Nicola Sturgeon:** I suspect that, in this category of crime—as, unfortunately, in many other categories of crime—there is a degree of underreporting because people, for a variety of reasons, decide not to report such behaviour. We are, however, starting to see an increase in the reporting of such behaviour in the national health service, as there has been an increase in the number of reported violent and abusive attacks. I encourage anybody who suffers such unacceptable behaviour to report it in the appropriate way. All of us want to see those who are responsible suffering the consequences of their behaviour.

#### **Private Letting Agencies (Regulation)**

**6. Charlie Gordon (Glasgow Cathcart) (Lab):** To ask the Scottish Executive what plans it has to improve the regulation of private letting agencies. (S3O-11046)

**The Minister for Housing and Communities (Alex Neil):** Our recent consultation on a proposed private housing bill outlined new powers for local authorities to require letting agents to provide a list of the properties that they manage. That measure could help to put an end to unscrupulous agents acting on behalf of unregistered, rogue landlords. The consultation also described legislative provisions that will clarify prohibited charges, which will prevent agents from charging unacceptable administration fees. I am well aware of the impact that rogue landlords and private letting agents can have on communities such as Govanhill and those in Mr Gordon's constituency, and I am determined to tackle the growing problem. That is why, last week, the cabinet secretary announced £1.8 million in funding to tackle problems in Govanhill.

**Charlie Gordon:** The minister will recall that, in yesterday's debate on stage 1 of the Housing (Scotland) Bill, I drew attention to the actions of private letting agencies that have placed antisocial tenants of rogue landlords in parts of my constituency, thereby ruining the quality of life of hundreds of my constituents. Will he act, in this parliamentary session, to force such agencies to vet both tenants and landlords? If so, when will he act?

**Alex Neil:** As Mr Gordon knows, we are considering all such issues in the drafting of the proposed private housing bill. We are specifically considering the definition of who constitutes a fit and proper person to be a landlord and how that relates to their allowing tenants to engage regularly in antisocial behaviour. The bill will place the responsibility on landlords as well as introducing additional measures for controlling and regulating letting agents. We hope that the combination of those measures will have the desired impact. I share Mr Gordon's objective in that area of policy.

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** The minister will know that it was because of the antisocial behaviour that was carried out by many tenants of private landlords in my constituency that I pushed for the amendments to the Antisocial Behaviour etc (Scotland) Act 2004 that introduced licensing. The point was made yesterday that that was perhaps not the right legislation in which to have that provision. Nevertheless, it is a growing problem, and it was a problem then.

Some local authorities are using the power in the 2004 act; others are not. Can the minister do anything now to make local authorities take action? He said yesterday that it was a power rather than a duty. Surely, if there is a power, the Government and the Parliament should be encouraging local authorities to use it to protect our communities.

**Alex Neil:** At my regular meetings with the Convention of Scottish Local Authorities, I have raised a number of times the need for all local authorities to implement the landlord registration scheme more robustly and to take action against rogue landlords. We will include additional powers in the proposed private housing bill, which will be published after the summer recess. I entirely share the member's objective of taking a more robust overall approach to dealing with the problem of rogue landlords.

#### **Sight Loss (Early Intervention)**

**7. Jim Hume (South of Scotland) (LD):** To ask the Scottish Executive what early intervention measures it is taking to tackle sight loss. (S3O-11078)

**The Minister for Public Health and Sport (Shona Robison):** There are a number of measures in place in Scotland to tackle sight loss, including free national health service eye examinations for all, vision screening in children and diabetic retinopathy screening.

**Jim Hume:** I welcome the minister's mention of free eye tests, which were brought in by the Liberal Democrats, of course.

The Royal National Institute of Blind People published some worrying projections last week, indicating that the number of people with sight loss could double by 2030. Does the minister agree that a targeted approach involving early diagnosis, preventive treatment and good access to services is the answer? Can she advise what her directorates are doing to prepare and implement such a strategy?

**Shona Robison:** We have invested record sums—about £92.9 million last year—in general ophthalmic services. Scottish eye care is widely recognised as being among the best in the world. Demographic challenges throw up a range of issues for us to be aware of, and sight loss is one of them. We need and intend to keep our eye services as robust as they are at the moment.

Just this week I had the pleasure of launching a new training tool for opticians on the front line, who may well work with patients with learning disabilities. There are huge levels of undetected sight loss and eye problems among people with learning disabilities that have not been identified over the years. The current awareness of the problem, and the moves to ensure that those who work on the front line have the necessary training in communication issues in particular, will meet a need that has not previously been met and will help to reduce some inequalities among that population.

**Nanette Milne (North East Scotland) (Con):** There is concern that some younger diabetic patients—possibly those who need screening most—are missing out on screening for diabetic retinopathy and macular oedema. What actions is the Scottish Government taking to improve the screening of young people in particular, thereby meeting its as yet unmet targets? What is being done to promote patient responsibility in actively seeking such screening?

**Shona Robison:** The Scottish diabetic retinopathy screening programme is widely recognised as a world-class service, and it has robust processes in place to ensure that everyone who is eligible for it is offered regular screening. Nanette Milne raises some valid questions about how we ensure that sections of the population who might be less likely to come forward for screening are reached. We will continue to consider that point, possibly using different communication channels to raise awareness, among young people in particular, of the importance of coming forward at an early stage to get any concerns checked out. I will perhaps write to the member with some more detailed information.

**Dr Richard Simpson (Mid Scotland and Fife) (Lab):** I concur with the minister that, with our optometrists and general ophthalmic services, Scotland's eye programme is a world leader. Can

she indicate whether the innovative link between optometrists and ophthalmology that has been developed at Queen Margaret hospital in Fife, which the Cabinet Secretary for Health and Wellbeing has visited, will be rolled out? Will the Government support the setting up of a robust information technology link to increase the efficiency of that highly innovative and productive programme by replacing the workaround method that is currently being used to support it?

**Shona Robison:** I am certainly aware of NHS Fife's very successful work in that area. Officials have been considering a draft outline business case, which includes proposals for electronic referrals from optometrists to secondary care. The project team has been asked to undertake further work on the business case, and we will be looking at it in due course.

### **National Health Service Dentists (Orkney)**

**8. Liam McArthur (Orkney) (LD):** To ask the Scottish Executive when it expects the 1,500 people waiting to register with an NHS dentist in Orkney to be registered. (S3O-11079)

**The Minister for Public Health and Sport (Shona Robison):** Responsibility for the overall provision of NHS dental services in the area rests with NHS Orkney. Progress has been made in adult and child registrations, with an additional 1,713 new patients being registered with an NHS dentist in Orkney between December 2008 and December 2009. Plans to increase capacity further are well advanced. In addition, Orkney NHS Board has advised that a dental review will be undertaken to consider demand, activity, waiting list management and how best to use current capacity. The review will report in early August, and a timescale for addressing the outstanding registration waiting list will be available following that review.

**Liam McArthur:** I thank the minister for that detailed response. She will recall that I had an exchange with the Cabinet Secretary for Health and Wellbeing in November 2008 on the same subject. Although there has been progress on registrations in some respects, they have simply mopped up an additional 3,000 to 4,000 patients who were added to the waiting list as a result of the departure of two or three dentists.

Despite what was said in 2008 about proposals for expanding employment and premises, the figure of 1,500 patients on the waiting list remains stubbornly resistant. What assurances can the minister give that that figure is likely to reduce over the next 12 to 18 months?

**Shona Robison:** Further to my first answer, an outline business case for improved provision of dental facilities to increase capacity is in

development. In the meantime, as I alluded to, current capacity is being examined for efficiencies. NHS Orkney was allocated £1.35 million of primary and community care premises modernisation programme funding to be used for dental provision.

However, it is acknowledged that there is still a core of patients who require to be registered. That is why the dental review will be undertaken. It will report in early August, and a timescale for acting on what needs to be done beyond what has already been done or is in the process of being done will be outlined as the review reports.

### **Low-cost Initiative for First-time Buyers**

**9. Pauline McNeill (Glasgow Kelvin) (Lab):** To ask the Scottish Executive what adjustments it is making to the low-cost initiative for first-time buyers scheme. (S3O-11060)

**The Minister for Housing and Communities (Alex Neil):** The Scottish Government wants to help as many people as possible, within the resources that are available, to access home ownership if it is affordable for them. We keep all five schemes in our low-cost initiative for first-time buyers under review. We have made a number of adjustments to enable more first-time buyers to achieve their aspiration of home ownership, particularly in the current economic climate. An evaluation of the main LIFT schemes is being carried out this year to help to inform how our support for first-time buyers should best be targeted.

**Pauline McNeill:** What is the minister doing for first-time buyers who qualified for the Government-backed interest-free equity loan but cannot take advantage of it because the banks are demanding a contribution on top of it, thus undermining their prospects of buying a property? Has he thought about meeting the banks to discuss their obligations? What is the point of a Government scheme to help first-time buyers on low incomes if the banks ask for a contribution on top of it that a low earner simply cannot provide?

**Alex Neil:** I have already raised the issue with the Council of Mortgage Lenders and individual banks. I share Pauline McNeill's concern about the fact that, for a shared-equity scheme under which the Government was providing up to 40 per cent, banks were still demanding deposits averaging about 5 per cent. We need to persuade them that that is not a fair proposition. They reply that there is a lower default rate among those who put in some money of their own, but I believe that the deposits that they are asking for are far too high—in many cases, they are excessive. However, many banks do not require a deposit when a property is purchased under a shared-equity scheme.

**Bill Kidd (Glasgow) (SNP):** What impact have the Government's shared-equity schemes had on housing provision?

**Alex Neil:** Last year, we spent £60 million on our LIFT schemes, which helped 1,500 families. We are helping up to another 1,000 this year. Two thirds of the money is in the open market shared-equity scheme; another third last year was in the new supply shared-equity programme. However, we have recently launched an innovative pilot with five developers, in co-operation with Homes for Scotland, the umbrella organisation for developers in Scotland, which will involve them sharing the shared-equity contribution 50:50 with the Scottish Government. We are considering every way possible to increase the numbers against a background of reducing public sector budgets.

### **National Health Service Boards (Expenditure Reduction)**

**10. Ross Finnie (West of Scotland) (LD):** To ask the Scottish Executive how it will ensure that proposals by national health service boards to reduce expenditure on services are fully consulted on with the affected community. (S3O-11077)

**The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon):** Obviously, I expect all health boards to ensure that services are as efficient as possible in order to deliver best value for taxpayers' investment, but boards must also be fully aware of their obligation to engage with appropriately and to involve the public, staff and other local stakeholders when any proposals for service change are being made. Comprehensive guidance on that was issued to all boards in February, and I expect all boards to follow it.

**Ross Finnie:** I am grateful to the cabinet secretary for that response, but let me press her on it slightly. As I understand it, the need to consult those who will be directly affected by proposals is understood, but some cuts might have an indirect effect on people such as carers. How is the requirement to consult groups of such people—carers are not the sole example—embodied in the guidance that she issued?

**Nicola Sturgeon:** In fairness, Ross Finnie raises an important point. Much of the guidance that I am talking about—like many of the changes that we have introduced over the past three years, such as the need for independent scrutiny—deals with proposals for major service change. It is right that we lay out clear and comprehensive guidance to boards on dealing with those circumstances.

Nevertheless, even small changes that affect smaller groups of people can represent significant change for the people involved. I therefore expect boards to take a very proactive approach to

consultation when any changes to service provision are being made. Obviously, a key element in that is the public partnership forums that boards have in place, which contain a range of different patient interests. To refer to Ross Finnie's example, I know that carers are represented on many PPFs. We are in challenging times for not just the NHS—it certainly is not immune to that and that puts an even greater obligation on boards to ensure that they engage constructively with people who are affected by change proposals.

**Jackie Baillie (Dumbarton) (Lab):** As the cabinet secretary will be aware, workforce projections suggest that the NHS will have 4,000 fewer staff, including 1,500 fewer nurses. The Royal College of Nursing and others do not believe that that number of nurses can be taken out of the NHS without there being an impact on patient care. Therefore, will the cabinet secretary have a final say on those service changes? If so, will she mirror the current practice by ensuring that local communities are engaged in those decisions, too?

**Nicola Sturgeon:** I know and respect the RCN's views on those projections, but, unlike Jackie Baillie, the RCN also recognises the need to engage constructively in this process, because, unlike Jackie Baillie, the RCN recognises the financial climate that we live in. I find it absolutely staggering that Labour, which created the economic meltdown that led to the financial crisis, continues to deny any responsibility for the crisis and continues to pretend that we do not need to deal with it. I think that people in Scotland will also be staggered by that hypocrisy.

As Cabinet Secretary for Health and Wellbeing, my job is to ensure that we steer the NHS through these difficult times, but that we do so with an iron focus on quality of care and fairness to the staff who work so hard in the service—

**Jackie Baillie:** Will she sign off on those?

**Nicola Sturgeon:** I hear Jackie Baillie say, from a sedentary position, that we will sack NHS staff. That is the height of irresponsibility—

**Jackie Baillie:** That is not what I said.

**Nicola Sturgeon:** I apologise if that is not what she said, but that is how it sounded to me.

One reason why I think that we can safely say that we are guiding the NHS through the current situation is because we are putting quality at the centre and we are ensuring that staff are treated fairly. That is why a policy of no compulsory redundancies is so important to ensuring that staff are treated fairly. I hope that all members will get behind NHS staff in these difficult times.

## National Health Service Staff (Disabled Employees)

**11. Helen Eadie (Dunfermline East) (Lab):** To ask the Scottish Executive when it last discussed the concerns of disabled employees with trade unions that represent national health service staff. (S3O-11041)

**The Minister for Public Health and Sport (Shona Robison):** The Scottish Government has established the mutuality, equality and human rights board to provide a forum for key stakeholders to discuss issues relating to all strands of equality, including disability. In addition, the Scottish workforce and staff governance committee has had discussions on disability leave policies. Both those bodies include representation from trade unions and professional bodies.

**Helen Eadie:** I cannot think of any member who is not sympathetic to the needs and wishes of disabled people in Scotland. That includes the minister. Having said that, we must translate that empathy, sympathy, support or whatever we might call it into practical action.

I ask the minister and the cabinet secretary to ask every member of the Cabinet to examine their portfolio to find out which contracts could be made available, under article 19 of the public procurement directive, to the sheltered workshops throughout Scotland. Some sheltered workshops have orders that are not projected to last much beyond the summer. The procurement contracts for NHS uniforms, police uniforms and uniforms of workers in other services are huge. Under the article 19 rules, it is legal to reserve a share of those contracts for disabled people.

For the sake of the people who work in sheltered workshops, I plead with the minister in the sincerest way that I can to examine the issue urgently and to try to ensure that, for the first time in the history of the Scottish Parliament, the Scottish Government awards contracts to organisations for disabled people.

**Shona Robison:** I have every sympathy for Helen Eadie's position. No one wants sheltered workshops to be closed. A lot of work has been done in different localities across Scotland to support sheltered workshops, but that must be balanced against the procurement rules and the requirement for us, in these difficult financial times, to get the best value for money in the procurement policies that the public sector pursues. That is difficult to do, given the difficult financial situation that we are in.

It is a case of supporting the sheltered workshops to make the best bids that they can for some of the contracts in question. I know that some local authorities have given sheltered workshops a lot of help to make the best bids that



they can, within the procurement rules. Many people across the public sector, in the Scottish Government as well as in local government, have been doing what they can, but that must be balanced against the need to get the best value in these difficult financial times. If Helen Eadie would like me to, I will write to her to give a bit more detail on what has been done.

### Patient Care

**12. Marlyn Glen (North East Scotland) (Lab):** To ask the Scottish Executive how levels of patient care will be shown to be protected despite targets to reduce staffing numbers in the national health service. (S3O-11045)

**The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon):** The national scrutiny group that I announced on 3 June will subject board workforce plans to on-going scrutiny to ensure that they do not impact adversely on the quality of patient care. The group will liaise closely with local area partnership forums and will raise any issues of concern with the Scottish partnership forum and directly with me.

**Marlyn Glen:** I welcome the setting up of the national scrutiny group. Will the cabinet secretary commit to publishing full workforce plan information to allow stakeholders to engage effectively with that group? How will she ensure that service design is not undermined by tactics such as

“not recruiting new staff when people leave or retire, reducing hours and redeploying much-needed specialist nurses to hospital wards”,

to quote the RCN’s Theresa Fyffe?

**Nicola Sturgeon:** We have already published workforce projections, but Marlyn Glen might be interested to know that boards will publish workforce plans, just as they do in every other year. All the information that the national scrutiny group requires to do its job will be shared with it.

The other part of Marlyn Glen’s question goes to the heart of what we have asked the national scrutiny group to do. We want it to ensure that boards take forward the plans that support their projections in a way that does not impact adversely on quality of care, which must be protected at all costs. That is essential and it is exactly what we intend to do.

Members should be aware that there are many legitimate and desirable areas of service redesign and development that allow for staff efficiencies. In fact, the acute services review in Glasgow that the previous Government signed off is leading to services being provided on fewer sites. It is right that boards ensure that their staffing requirements

reflect how they are delivering services. We will keep a sharp focus on quality, and I look forward to being supported in that process by the national scrutiny group.

**Mary Scanlon (Highlands and Islands) (Con):** Will the cabinet secretary ensure that any member of staff who raises concerns relating to patient care is protected from disciplinary procedures or any other form of reprisal from the NHS?

**Nicola Sturgeon:** Every single member of NHS staff has a right to raise any concerns about patient safety or any aspect of patient care in the appropriate way, and all health boards have policies in place to make it clear that that is the case. Those policies also state that anybody who seeks to bring about reprisals against any member of staff for raising such concerns will themselves be subject to disciplinary action. That is an important message to send to everybody in the NHS.

## “Independent Review of Sheriff and Jury Procedure”

**The Deputy Presiding Officer (Trish Godman):** The next item of business is a debate on motion S3M-6636, in the name of Kenny MacAskill, on the “Independent Review of Sheriff and Jury Procedure”.

14:57

**The Cabinet Secretary for Justice (Kenny MacAskill):** Another major step in the process of reviewing criminal procedure in Scotland was completed on Friday 11 June when Sheriff Principal Edward Bowen CBE presented me with a thought-provoking and very thorough report on his review of sheriff and jury procedure. I thank Sheriff Principal Bowen for his substantial work and for delivering his report within the agreed timescale.

It is clear from reading the report that, in conducting the review, Sheriff Principal Bowen adopted a hands-on approach, meeting and canvassing views from a large number of practitioners who are involved with sheriff and jury procedure. That approach adds considerable weight to the proposals that are made in the report. I commend him for making recommendations that respect the principles of a fair and effective justice system and which have regard to the needs of the largest and smallest courts in Scotland.

In commissioning the review, I was aware of the widespread view among sheriffs and practitioners that the procedures for managing such business needed to be re-examined. However, I note that when launching his report Sheriff Principal Bowen commented that the picture revealed to him in conducting the review was not wholly one of doom and gloom, with the existing system showing remarkable ability to absorb a significant increase in business and continuous efforts being made in various places by sheriffs, court staff and practitioners to bring about improvements. I was encouraged to note the efforts that were identified to improve practice and bring about cultural change, both nationally and locally, by the Crown Office and Procurator Fiscal Service, sheriffs, practitioners and the Scottish Court Service, and I agree with the sheriff principal that

“substantial improvements can be made within the existing legislation and structural frameworks”.

It is a strength of the Scottish legal system that those who work in our courts continue to strive to improve the way procedures work.

Although I am heartened to hear those positive points, we should not be tempted to think that the system needs only some minor tweaking, as it is

clear from the report’s proposals that fundamental changes to procedure and practice are needed to deal with the root causes of the problems that were rightly identified by the sheriff principal.

The first problem that Sheriff Principal Bowen highlights is the pressure that is put on the system by the significant change to the landscape in the sheriff court with regard to how serious cases are dealt with. He says:

“The role of the sheriff in dealing with serious criminal cases has changed dramatically over the last 2 decades. The change has been both in terms of volume and in the complexity of cases proceeding by way of indictment”.

Increasing the sentencing powers of sheriffs has, understandably, resulted in more complex cases being prosecuted on indictment in the sheriff court. That is what was intended, and some measuring of the impact of the change was one of the issues that I had in mind in commissioning the review last year. Sheriff Principal Bowen found that sheriff and jury indictments had increased from just over 3,000 in 1988 to just over 8,000 in 2008. An area of further challenge is the rising number of cases in which the accused is remanded in custody pending trial, which is up 62 per cent in the four years to March 2009.

I cannot address all of Sheriff Principal Bowen’s recommendations today. His report contains 34 recommendations and extends to 145 pages. It helpfully details the current procedures, provides detail on the volume and disposal of business, identifies problems and provides proposals for improvement.

I welcome the fact that Sheriff Principal Bowen’s first recommendation attempts to improve the experience of victims and witnesses. Indicting cases to a first diet only, with trials being fixed once the court is satisfied that the case is actually ready for trial, would provide huge benefits to victims and witnesses, including police and forensic expert witnesses, who would not make unnecessary arrangements to attend court, only to cancel such where the accused pleads guilty at the first diet. Some of the costs that are associated with the current situation are the human costs of worry and stress—addressing those issues will help to breed confidence in our legal system—while others relate to the best use of our police officers.

Sheriff Principal Bowen diagnoses communication as an issue that contributes to first diets not functioning as they should—that is, as a clearing house for trial sittings. His view is that first diets are routinely continued to allow negotiations and discussions to take place between the Crown and the defence due to a lack of earlier engagement between the parties. Everyone welcomes the dialogue and discussion between the Crown and the defence, but the issue, as

correctly analysed by Sheriff Principal Bowen, is how and when they take place. First diets should serve a critical role as a gateway for cases going to trial, and parties should ensure that they respect that element of court proceedings. The sheriff principal had no doubt that failings in first diet are caused by a combination of issues, such as parties not engaging prior to that point and the overall pressure that is caused by the volume of business being squeezed into the system.

To improve communication in sheriff and jury procedure, Sheriff Principal Bowen recommends the introduction of a compulsory business meeting, to be fixed when the accused first appears on petition and held prior to service of the indictment.

**Robert Brown (Glasgow) (LD):** I wonder whether the proposal to have such a meeting before the indictment is as practical as it appears to be at first glance, as it would occur before the parties have come to grips with the issues and before the defence knows much about the situation. Would it not be better to have the CBM after the service of the indictment?

**Kenny MacAskill:** The purpose of the compulsory business meeting is to focus on the issues that might appear in the indictment. Those are matters that can relate to what Sheriff Principal Bowen has recommended.

The system of serving an indictment before having discussions leads to witnesses being instructed and cited unnecessarily. We need to focus. The Government is not standing on ceremony, and it is willing to discuss and debate these matters. Perhaps there could be some dovetailing, but the principal point that Sheriff Principal Bowen makes is that parties should get together to see what they can agree on. If the case proceeds to a trial, people can agree on what that trial will be for and witnesses can be sure that they will need to attend on a date that is set for the trial.

Equally, if we know how someone is prepared to plead, we can tender something to which we know that they will plead, rather than having to make amendments. There is some logic in Sheriff Principal Bowen's recommendations on that issue, but the purpose of his review and this afternoon's debate is to flesh out such matters.

Sheriff Principal Bowen recommends that a written record of the CBM is prepared and made available to the sheriff prior to the first diet. That would move proper engagement to an earlier stage in the proceedings and seems to be a sensible way forward. The Scottish Government will consider in more detail how that approach would work in practice by modelling the impacts on the system and the costs.

It is clear that if parties are compelled to communicate earlier in proceedings, there is scope to bring forward pleas of guilty even before the first diet stage. Increasing the number of early guilty pleas has many benefits: it removes cases from the system, which frees up court and human resources to focus on the remaining cases.

If we take together Sheriff Principal Bowen's proposals to introduce a CBM, to fix the trial date for a case once it is known that the case will go to trial and to extend the time limit between service of the indictment and the first diet, it is clear that we need to examine the existing time limit of 110 days for an accused person to be remanded in custody pending trial. Sheriff Principal Bowen makes a substantial case for the time limit to be extended to 140 days, which deserves serious consideration. I invite members to study the arguments and evidence that he provides. Any changes to time limits will be a matter for the Parliament. It is not a decision to be taken lightly, but I am aware that the issues in the system have moved on since we last considered time bars for the High Court. I did not support extension then, but I have found the case that has been made to be highly persuasive and I urge other members to give the recommendation serious consideration.

A couple of recommendations highlight Sheriff Principal Bowen's breadth of thinking in conducting the review. He recommends that legal aid should be reviewed to incentivise early resolution of cases. I wish to encourage pleas of guilty at the earliest possible stage, so we will closely examine how legal aid could support that.

Sheriff Principal Bowen suggests extending the use of television links between prisons and courts, and highlights the administrative and environmental benefits. I agree that extending the use of TV links would reduce disruption to prisoners and could provide a welcome saving in costs, both financial and to the environment. I will ask relevant interests to examine that suggestion with a view to finding the best solution and addressing any concerns.

**Stewart Maxwell (West of Scotland) (SNP):** I was going to raise the issue of TV links in my speech, and I will still do so. Cornton Vale is the sole female-only prison in Scotland, so the issue of the distances that those prisoners travel to get to courts throughout Scotland is particularly acute. Is the cabinet secretary minded to support early movement on the introduction of TV links at Cornton Vale?

**Kenny MacAskill:** I am happy to consider that issue. There is a significant problem at Cornton Vale, which is exacerbated given that it has a national locus. Many members have raised issues concerning female prisoners who have been transported in less than salubrious circumstances.

There is a lot of merit in Stewart Maxwell's proposal, and I am happy to discuss the issue with the Scottish Prison Service and the courts administration.

In considering the way ahead on the proposals, I am pleased to open the debate and will listen with interest to contributions from members throughout the chamber. We will examine the recommendations carefully in conjunction with our criminal justice partners. Lord Gill's review of civil courts also impacts on the business in the sheriff court. The civil court and sheriff and jury recommendations are intertwined, and we will progress them together under the overall stewardship of the recently established making justice work programme.

Scotland has much to be proud of in its criminal legal system and the people who work in it. Sheriff and jury procedure is a significant part of that system, and it is imperative that we take the opportunity to reform sheriff and jury procedure and to provide procedures that will ensure that we have modern effective Scottish justice, drive up public confidence in the system and achieve efficiencies where that can be done without interfering with the interests of justice.

I move,

That the Parliament welcomes the report on the Independent Review of Sheriff and Jury Procedure conducted by Sheriff Principal Edward F Bowen CBE TD QC and believes that the people of Scotland deserve a modernised sheriff and jury procedure that promotes the interest of justice in an efficient way, serves the interest of victims, witnesses and jurors and is fit for purpose in the 21st century.

15:09

**John Lamont (Roxburgh and Berwickshire)**

**(Con):** The Scottish Conservatives welcome the review of sheriff and jury procedure and, like the Scottish Government, thank Sheriff Principal Bowen for preparing this important report.

The first duty of any Government is to protect society from those who seek to undermine it and any reform to our criminal justice system must not detract from that aim. However, we welcome any recommendations for streamlining current procedure and encouraging the justice system to be swifter. At a time when there are serious constraints on public expenditure, it is vital that services are provided efficiently and cost effectively.

That that very principle guided the report's thinking is important. The review's analysis and recommendations are very helpful, with the main intention of making judicial processes in Scotland more efficient and effective. I am glad that Sheriff Principal Bowen had the foresight to take account

of the likely stringencies imposed by potential public spending cuts.

Scotland's sheriff courts are greatly important to our judicial system and, given that business in them is increasing, it is imperative that they work well. The statistics in the review that show that the number of cases heard in sheriff courts has been increasing only underline further the need for a more efficient service.

We are pleased that the review recommends the introduction of compulsory business meetings to ensure that the Crown and the defence discuss cases at an early stage in proceedings, and I hope that such a move will result in parties being better prepared for court appearances and will lead to a higher number of guilty pleas being made at an earlier stage. I hope, too, that such meetings will ensure that those who are involved in the first diet meeting are focused on their purpose as a clearing house for cases going to trial.

Evidence from areas in which good communications already exist clearly suggests that early engagement and communication between the Crown and defence help to remove churn and adjournments at first diet and increase the number of section 76 pleas. Under the proposed procedure, parties must at the first diet meeting be in a position to reliably inform the court of their state of preparation for the trial, particularly in relation to the availability of witnesses.

As Sheriff Principal Bowen makes clear, although the Crown and defence state that they are willing to engage in early discussions, those discussions very often do not occur or are ineffective. I hope that the formal compulsory business meeting between the two parties will increase co-ordination, although I suggest that Sheriff Principal Bowen's claim that it will

"generate a culture of effective engagement beyond the CBM ... for the ... duration of the case"

is somewhat optimistic. Similarly, the sheriff principal's stress on the need for

"a fundamental change of mindset by the Crown and defence so that they appear for First Diets as fully prepared as possible and do not continue the current practice of seeking continuations to finalise their preparations"

could be viewed as too idealistic or optimistic.

We welcome Sheriff Principal Bowen's analysis of and recommendations on the processing of witnesses, given that the current system in Scotland has been proven to be not particularly cost effective. Indeed, senior police officers have called for reform of the current process, which is based on an ineffective computer system that routinely calls officers to give evidence when they are not required, taking them off the beat and away from protecting communities.

The cost of such inefficiency has been millions of pounds of taxpayers' money. In May, Stephen House, the chief constable of Strathclyde Police, Scotland's largest force, revealed that last year his force spent £4 million on extra wages for officers attending court on their days off. On 21 April 2010, an apparently typical day, 312 Strathclyde police witnesses were called to court, but just 10 gave evidence. Moreover, more than a quarter of those who were called were on leave. Chief Constable House then drew comparisons with a similar-sized force, Greater Manchester Police, which spent under £100,000 bringing officers to court. We will all agree that we can learn from other forces about how to work more effectively with the Crown to avoid calling officers to give evidence on rest days and during annual leave. That should not be happening and the Scottish judicial system should be trying to operate as efficiently as possible and to be responsible in its spending and with its organisational structures.

In that light, we are glad that the review recommends that a witness be cited to give evidence only where it is known that the case will proceed to trial and we welcome the recommendation that greater use be made of stand-by arrangements for witnesses and of means to clarify which witnesses will be required for trial. Such a move will be successful in making Scottish courts more time efficient and cost effective.

Although issues regarding jurors fall between the scope of the review and the reforms that the Scottish Government is progressing, some of those issues directly affect the efficiency of court procedure. Jury service is an important public duty and, without the attendance of jurors, the justice system could not function. The review illustrates inefficiencies in the jury processes in Scotland, particularly concerning jurors who fail to attend. By not turning up to court after citation, jurors cause more inefficiency and hinder the judicial process. We therefore welcome Sheriff Principal Bowen's recommendation that sheriffs make greater use of the provisions of section 85(6) and 85(7) of the Criminal Procedure (Scotland) Act 1995, under which fines can be imposed on those who fail to attend court to perform their jury service.

The evidence that Sheriff Principal Bowen presents for that recommendation is an example of a more efficient judicial process under which such fines were imposed. Not only did that act as a punishment for those who failed to attend, but the resulting media coverage acted as a deterrent to those with similar plans in mind. We recently welcomed the measures in the Criminal Justice and Licensing (Scotland) Bill to extend the age limit for jurors from 65 to 70. However, we continue to press the Scottish Government to

extend to 70 the age limit for jurors serving in civil court proceedings.

The Scottish Conservatives welcome the findings of the review and hope that the recommendations are implemented successfully. We believe that the people of Scotland deserve a modernised court system. I hope that we will find agreement that the implementation of the recommendations would result in a more time-efficient and cost-effective service to the people of Scotland.

I move amendment S3M-6636.1, to insert at end:

“, and further recognises that, with constraints on the public expenditure, it is vital to ensure that justice continues to be delivered swiftly and in a cost effective manner.”

15:16

**Robert Brown (Glasgow) (LD):** The review is the latest in a series of reviews of core procedures that have covered civil courts, the High Court and various aspects of procedure. The reviews, which go back to work that was begun after 1999, demonstrate with clarity one reason why the Scottish Parliament was established in the first place—to deal expeditiously with matters that affect domestic legislation and the courts that were difficult to deal with in good time at Westminster.

I confess that I was not aware of the extent to which sheriff court jury trials, rather than those in the High Court, dominate the prosecution of serious crimes in Scotland, but so it is. Sheriff Principal Bowen, to whom the Parliament is indebted for his comprehensive report, has identified that as being one of the most significant changes in the past 20 years. The cabinet secretary talked about the figures, but I point out that sheriff court jury trials accounted for about 86 per cent of all solemn business. As the sheriff principal has said, that is partly because of the extension of sheriffs' sentencing powers from sentences of two years to sentences of five years, and partly because of a rise in prosecutions. Incidentally, that trend gives the lie to the claim that Scotland today is somehow not hard enough on criminals, because that trend has been accompanied by an upward trend in the level of sentences for similar crimes.

John Lamont talked about the need for more early guilty pleas. I do not think that he meant that in the way that I am about to discuss, but I want to put the issue in context. The object of the exercise is not to get more early pleas of guilty per se; the object is better justice in the Scottish courts, one aspect of which would be that people who are guilty of crimes plead guilty at an earlier stage.

The jury courts, particularly in Glasgow, are stretched to capacity in allocating jury trials but,

paradoxically, the court rooms are not fully used. The report reveals that in Glasgow, 27 per cent of cases calling for trial in 2009 were adjourned and that only 780 days out of 1,750 programmed days were used. Throughout the country, only about a third of cases that were allocated to jury trial sittings went to trial.

I do not want to overstate the issue. One main difficulty that Sheriff Principal Bowen identifies is the tendency of accused persons to stick their heads in the sand and hope for something to turn up, or to fail to engage with a solicitor. That is an understandable human reaction; a witness might not show up, a technical deficiency might be found or a miracle might happen. In any event, nobody likes to admit guilt, particularly in public and particularly to a nasty crime. No court procedure in the world will stop that entirely, but effective court procedures can reduce the problem. Procedures can be devised to deal with the issue as far as possible without inconveniencing witnesses.

The sheriff principal identified situations in which preparatory work had not been completed, either because the defence had not been able to meet properly with the prosecution or for some other reason. I can say from experience that it concentrates the mind wonderfully to know that one will shortly have to face an unsympathetic bench with not entirely satisfactory explanations as to why one's case is not quite where it ought to be. However, some leeway is needed. Solicitors for one side or the other can be off sick or stuck in court on other business. Sheriff Principal Bowen noted the problems that that can sometimes cause.

Oddly, because the average sitting time in sheriff and jury cases is only four hours a day, when the cases go up time can be freed and an opportunity found for the solicitor and the fiscal to meet. Although a strict approach from the bench is a useful driver of more efficient court business, there needs to be some flexibility in practice. In that context, the proposal to indict to the first diet and not to fix the trial diet until standing issues have been dealt with is sensible. Many problems can be resolved by earlier effective engagement.

The idea of the compulsory business meeting is a fruitful one, with the date being fixed at the time of the first appearance on petition. The objective is to drive a change of culture, which is really important—the formalities do not matter as much as a change of culture. It is important that the idea of the compulsory business meeting is not watered down, as so often happens with such ideas. A process of mutation into something else is a common characteristic of many court procedural reforms, whether it is adjustment roll callings in civil cases, interim hearings in family cases or intermediate diets in criminal cases. Although

much can be done to encourage diligent legal preparation, the whole process is aborted if the accused person does not co-operate.

Many people who appear before courts live chaotic lives. They do not keep diaries and the concept of an appointment at a particular time is somewhat alien to them. Their home circumstances might be transient, their family links fractured and their mothers and partners do not know their movements. Accordingly, steps to encourage the accused person to co-operate are vital. It might be that the effect of a late guilty plea on a possible discount will be persuasive. The accused might have to be arrested to secure his or her attendance at the trial if they do not show up at an earlier diet. The cabinet secretary touched on the fact that there has already been an upward drift in the proportion of jury trials in which the accused is in custody, from 28 per cent in 2005-06 to 35 per cent last year. I am not entirely clear about the reasons for that, but the cabinet secretary might be able to give us some guidance later.

I have some concerns about the proposal to extend the traditional 110-day rule, which allows the Crown 110 days to get to trial in cases in which the accused is detained in custody. It is unsatisfactory in principle that an accused person who enjoys at that time the presumption of innocence should remain in custody longer than necessary. Purely pragmatically, it can mean that if there is a conviction, the time that has been served is deducted from the sentence and therefore less use can be made of the actual sentence to effect behavioural change, which is so necessary in reducing reoffending. Others might have been detained by the state for months for crimes that they did not commit, or of which they were subsequently acquitted. Despite pressures, there is now less of a trend to seek extensions of time in the sheriff court, which must continue to be the main objective, whatever we do about the 110-day rule.

I turn to the experience of procurator fiscal deputies. When I was a depute—which was, I admit, rather a long time ago—there seemed to be a reasonable balance between new or recent recruits and fiscals who had served for a number of years and who had a lot of experience. Disparities in pay between the Procurator Fiscal Service and private practice in subsequent years has sometimes meant that appointment as a junior fiscal is both good training and relatively well paid at commencement, but with lower pay scales at the more experienced level. We see the same phenomenon in local authority legal posts. I am told that the problem has somewhat diminished with the recession, which has hit legal firms as well. Nevertheless, there is still a legacy of that kind. Accordingly, there can be a bottom-heavy

staffing balance in the fiscal service, and inexperience was identified as an issue in the Bowen report. It is clear that people have to learn their trade, but the suggestions for improvement seem broadly sensible.

Concentrating on the technicalities of change tends to obscure the fact that the reforms are not just about the convenience of solicitors and the Crown. A primary purpose is to reduce the stress and unnecessary pressure on victims and witnesses for whom a court case can be harrowing. The Liberal Democrat amendment talks about early implementation and we are calling for urgent consultation and implementation of the report, but much of it should not require legislation and some procedural changes could probably be made within the current envelope. It is important that the proposed changes do not seem to cost a lot of money, which is a point that was made by Sheriff Principal Bowen. It is one of those rare reports that shows the route to improvements without incurring major cost to the public purse and we should embrace it with alacrity. However, I am not altogether certain that it helps to tie it in with the Gill review, which is a much more extensive report that involves more major matters.

We have debated extensively in the Justice Committee and the chamber the independence of the judiciary and the legal profession, the nature of the criminal code that is required by modern democratic society and the rule of law. However, in discussion of reform of the solemn procedure in the sheriff court those generalities are focused on the daily situation of individuals: people who have been deprived of their liberty by the state because of their actual or alleged misdeeds; victims whose enjoyment of their lives and civil rights has been rudely interrupted by the outrage of a serious crime committed against them, their family or property; witnesses who are doing—and are required to do—their duty as citizens, testifying on oath as to what they saw of the facts; and police officers who are taken away from important duties to play their part in securing justice. We are privileged to represent all those people and, indeed, society at large. We must ensure that we have as effective a system in the sheriff and jury court as we can to deliver that promise.

I move amendment S3M-6636.2, to insert at end,

“, and calls on the Scottish Government to work with the courts and other stakeholders to implement the reforms as a matter of urgency.”

15:25

**Richard Baker (North East Scotland) (Lab):** I join the cabinet secretary in welcoming the “Independent Review of Sheriff and Jury Procedure” and in congratulating Sheriff Principal

Bowen and his team on the report. Sheriff Principal Bowen’s recommendations are a natural progression from the changes that were made in the previous parliamentary session to criminal procedure in the High Court as a result of the review that Lord Bonomy chaired. We will always support changes in court procedures that not only improve our justice system’s efficiency but do so with a clear focus on serving better the needs of victims of crime.

Sheriff Principal Bowen has made it clear that the current procedures for sheriff and jury trials are too often unnecessarily traumatic, especially for victims. Too often, uncertainty is caused by frequent delays that result from the Crown or the defence needing additional time to assemble its case. Too often, a lack of communication between the Crown, the defence and the accused has resulted in witnesses having to attend trials when, if communication had been better, those who were guilty of the crimes could have entered a guilty plea much earlier. That is about different processes and a different culture, as Robert Brown said.

Sheriff Principal Bowen articulated plainly the stresses on sheriff courts that the current situation has created. I am sure that we were all struck by the statement in the report that, in the past 20 years, the number of people who are indicted for proceedings in the sheriff court each year has increased by nearly 5,000. As members have said, that is partly because sheriffs can now sentence offenders to five years’ imprisonment. Sheriff Principal Bowen states the case bluntly, but fairly, when he says:

“A system which involves the citation of witnesses in respect of ... 6,000 indictments in the likelihood that approximately 1,000 will proceed to trial is not ... defensible.”

The key focus should be on sparing the victims of crime unnecessary anxiety and trauma, although improving the efficiency of procedures will have other benefits—for example, for police officers who should be on the beat but who are called to give evidence at a trial, although it transpires that they need not do so. John Lamont referred to the worrying statistics that Chief Constable Stephen House of Strathclyde Police released. Other witnesses are put to similar unnecessary inconvenience.

The report also points out that witnesses’ experiences vary. A range of legislation has, of course, made progress for vulnerable witnesses, but facilities and support for other witnesses still need to be improved. It is essential to impress on all witnesses the importance of their attendance at court. It is right that courts should take appropriate measures when people do not attend and have no

good reason for absence, as Sheriff Principal Bowen says in his report.

Too often, the current circumstances unnecessarily inconvenience jurors. One juror said that, out of five days' attendance, he was required in the court and in deliberation in the jury room for a total of only three hours. The present situation puts pressure on the Crown and on procurator fiscal deposes, who must manage the sitting, negotiate pleas and liaise with defence solicitors while still having to start the trial, which should be their main focus. Much more of that could be done much earlier in the process. That is a key part of the practical, commonsense and well-researched proposals that the review has brought to Parliament.

The compulsory business meeting is a sound proposal to establish better communication between the Crown and the defence, so that the first diet is seen as moving towards the conclusion of the process of discussion—at present, it is often seen as the beginning and so results too frequently in continuations and delay. Some accused people will—undoubtedly—still hold out until the last possible moment to admit their guilt, but others will now have a clearer idea of what faces them, through earlier and better communication between the Crown and their defence. That is likely to improve the current situation, in which there are more instances in which pleas are made at trial than in which evidence is heard.

The proposal that the accused should be indicted only to the first diet strikes us as being sensible. It is not efficient to continue with the current situation of indicting to trial, with sittings being arranged and witnesses cited, despite the fact that, in 2008-09, pleas were tendered at the first diet or continued first diet in 46 per cent of cases.

We must also ensure that there is flexibility in our courts, so that business can be managed expeditiously. It is right that programming of sheriff and jury business should be structured with an overview of available capacity in the sheriffdom as a whole; we must make full use of the courts' resources. Sheriff Principal Bowen was right to take into account in his recommendations the need to avoid extensive additional costs. There are areas where the question of costs is relevant. The legal aid system should not provide an incentive for the defence to drag out cases.

It is important to ensure that all courts have proper facilities for the presentation of evidence digitally and for video links—to which Stewart Maxwell referred in his intervention during the cabinet secretary's speech—so that, where possible, such links can be used to eliminate unnecessary journeys to court. Cornton Vale

provides a prime example of the benefit that could be obtained from that approach.

We must ensure that there is proper training and mentoring for procurator fiscal deposes. In a number of areas, the report flags up the necessity of ensuring that our Procurator Fiscal Service is adequately resourced. Robert Brown made good points on that and on training and mentoring of procurator fiscal deposes. Such points are also well made in the report. In all of the areas that I have mentioned, Sheriff Principal Bowen highlights the fact that good practice exists; those examples should be learned in courts across the country.

The report is excellent and provides good recommendations that give us an opportunity to improve our sheriff and jury trial procedures. We will be part of a consensus in the Parliament that seeks to bring the changes into effect, in order better to serve our justice system and the victims of crime.

**The Deputy Presiding Officer (Alasdair Morgan):** We have some time in hand, so members may take an extra couple of minutes, if they wish.

15:32

**Stewart Maxwell (West of Scotland) (SNP):** I thank Sheriff Principal Bowen, his team and the reference group for delivery of a comprehensive review of sheriff and jury procedures. The process of reform and renewal of our court system has already seen the Bonomy report on reform of the High Courts, and the McInnes review of summary justice. The Bowen report adds to the progress that has been made and moves in the direction of travel that was established by those earlier reports.

Lord Bonomy's report attempted to tackle the so-called churn in High Court cases and pointed the way towards creating the circumstances for greater efficiency and greater certainty in dealing with cases. The main change that the Bonomy report recommended was the introduction of preliminary hearings, to ensure that both the Crown and the defence were ready to proceed to trial. Although the situation is not identical in the sheriff courts, there are similarities between the sheriff courts and the High Court in relation to citing of witnesses to trials that do not proceed, and the administrative effort and cost, as well as the inconvenience to witnesses, that result from that. One of the most interesting statistics in Sheriff Principal Bowen's report is that 96 per cent of respondents to a questionnaire that was directed at practitioners believe that unnecessary citation of witnesses is a problem, despite the



existence and purpose of first diets in sheriff and jury procedure.

Unnecessary citation inconveniences not only witnesses, but the police and members of the forensic services. We cannot afford to waste their time on unnecessary journeys to court. Sheriff Principal Bowen gives examples of problems in straightforward cases that should, on the face of it, be disposed of quickly. However, there is often little incentive for that to happen.

As members have said, the report details a number of difficulties with communication, not only between the Crown and the defence but, sometimes, between the defence and the accused. For example, in some cases, the defence experiences extreme difficulty in obtaining instructions from the accused. The problem is not limited to communication; it also creates some of the reasons why witnesses are unnecessarily cited to attend court.

The report covers a range of issues and highlights a number of problems in the system. I am sure that other members will address them in their speeches—there is insufficient time for me to go through all of them.

I wish to deal with some of the proposals for improving the situation. Following the reform of the High Court, there is a recommendation that

“cases brought by way of indictment in the Sheriff Court should not involve fixing a trial diet when the indictment is served. Cases should be indicted to a First Diet, and the court will allocate the case to a trial sitting once it is satisfied that all outstanding issues have been resolved at the First Diet.”

That recommendation is sensible and is to be welcomed. The introduction of greater certainty to the system can only be a positive move and helpful to everyone involved.

I also welcome the proposal to formalise best practice by way of compulsory business meetings before an indictment is served. Early communication between the Crown and the defence is another sensible measure that should lead to a reduction in delays to trials. I am sure that many members are aware that that is not unusual to many people who operate in the system, but such early communication does not always happen, unfortunately, and that leads to delays.

I want to highlight the issue of TV links: that is dealt with in chapter 9 of the report, which is relatively short. If we consider what causes unnecessary delays and costs in our system, it is clear that one of the obvious problems is transportation of prisoners to and from courts. The introduction of a TV link between Barlinnie prison and Glasgow sheriff court in August 2003 and its extension to other courts that are served by

Barlinnie prison after the review of October 2004 was supposed to provide part of the solution to those delays and costs. However, figures that are highlighted in the report show that the use of TV links has fallen from about 15 a month to about three a month, which is evidence that such technology is not being used as it should be or as it was intended to be used. The use of TV links between prisons and courts should be expanding rather than contracting, because such technology has a number of potential benefits, including the protection of witnesses and victims in courts, improved security, financial savings, care for vulnerable prisoners, less disruption of the prison regime, reduced escape risks and a reduced number of vehicle movements.

Sheriff Principal Bowen has pointed out that there are obstacles to overcome if we are to see more widespread use of TV links, but he also stated that they are not insurmountable. He states in chapter 9.4 of the report:

“I recommend that consideration be given to extending the provision in section 80 of the 2003 Act to allow the use of a TV link for all solemn proceedings in which evidence is not to be led or presented. I further recommend that consideration be given to removing the requirement in section 77 of the 1995 Act that the accused must sign any guilty plea.”

On the face of it, those suggestions seem to be eminently sensible. I would be grateful if the minister would give his view on that recommendation in his summing-up.

In supporting a change to the current rules to allow more use of TV links, I am particularly drawn to a comment in chapter 9.5 of the report, which refers to transportation of female prisoners from Cornton Vale to sometimes distant courts throughout Scotland, and back to that prison. I repeat the point that I made to the cabinet secretary during his opening speech, which Richard Baker also mentioned: given that Scotland has only one dedicated female prison, it would make a tremendous difference to what must be the regular—even daily—disturbances to that prison and the prisoners if TV links were established between it and a number of courts throughout Scotland. Because there is only one female prison in Scotland, female prisoners must travel the furthest distances to court and suffer the most disturbances. I accept that there are female prisoners in other prisons in Scotland, but Cornton Vale is the only national female prison. The costs, disturbances and inconveniences to female prisoners and to the Scottish Prison Service are unnecessary and the system is inefficient. It is high time that we resolved the situation through greater use of TV links.

It is not new technology, and videoconferencing is commonplace throughout society, so I see no reason why it should not be used more widely in

the Scottish courts. Given the fact that female prisoners in Cornton Vale have the longest journeys, and given the consequent costs and disturbances, will the cabinet secretary support the speedy introduction of TV links for Cornton Vale or will he, at the very least, take up Sheriff Principal Bowen's suggestion in chapter 9.5 of his report to

"establish a working group to examine the extension of use of TV links for all aspects of court business at all levels"?

The cabinet secretary mentioned that in his introductory remarks.

**Bill Aitken (Glasgow) (Con):** I have listened to what the member has said and think that there would be clear value in extending the use of TV links. However, Sheriff Principal Bowen suggests in the report that they should be used in any case in which evidence is not led. My interpretation of that is that, in cases in which the accused intimates a plea and may well be sentenced against the background of the plea, that could be dealt with by TV link. However, there could be obvious difficulties in connection with that—for example, if the accused disagrees with the narration and is unable to communicate that to his agent. Does Mr Maxwell have any answers to that problem?

**Stewart Maxwell:** That is why sheriff principal Bowen suggested a working group to look at the whole problem. I accept Mr Aitken's point about the difficulty, but we have to be cautious when we are introducing any change to the system of face-to-face court appearances. I do not believe that the problems are insurmountable, and Sheriff Principal Bowen says that in the report. We can take small steps forward in respect of cases in which evidence has not been led. There are obvious advantages to that, and we can proceed cautiously onwards from there. In 2010, we should not be regularly transporting prisoners to and from our jails. To be frank, we are doing that for no good reason.

I welcome the report and the recommendations and—again—I thank all those who were involved in its production.

15:41

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** On behalf of the Parliament, Presiding Officer, I thank you for the rare but welcome offer of more time for our speeches. I am sure that all members who will speak will take you up on that. It does not happen frequently. I welcome the opportunity to speak in the debate. As other members have done, I begin by thanking Sheriff Principal Bowen and his team for all their efforts in conducting the review and producing the report.

We live in times of financial constraint and savings have to be made. There is no doubt that it

is vital that all those in our justice system should perform to the best of their abilities and that the system should continue to be fair and balanced. That said, I believe that greater efficiencies can be achieved—efficiencies that will save time and money. We can do that and maintain our excellent justice service and better accommodate witnesses and victims. For that reason, I concur with much of Sheriff Principal Bowen's evaluation.

I turn to a main concern in the review: witnesses. There is no question but that witnesses can be inconvenienced by the rules and demands that the court enforces on them. There are times when witnesses are forced to spend a day attending court only for the case never to come to trial. That can be detrimental to people who are in someone else's employ, to self-employed people and to small business owners, many of whom admit that they cannot afford to take even half a day away from work in these tight financial times. Furthermore, as the cabinet secretary acknowledged in his opening remarks, being a witness can be deeply stressful and a long and drawn-out wait only adds to the strain. I hope that these fresh proposals reduce the trouble and anxiety that witnesses are forced to bear.

The introduction of a compulsory meeting between the Crown and defence at an early stage of proceedings is a welcome proposal. If, in a local constituency case with which I have been dealing, an early meeting between the Crown and defence had taken place, my constituents—who were called as witnesses—would not have been put to the trouble and distress to which they were put. The delay was caused by issues with closed-circuit television footage of the accused. The procurator fiscal depute who was taking the case through the court had not looked at the available footage before the trial. He relied on written evidence from the police, thought that the case was a good one to take forward only to find, on seeing the CCTV footage, that the images were not as clear as he had understood them to be. The trial did not go ahead. The delay in providing the necessary CCTV evidence resulted from the police having to put the CCTV footage on a readable disc. I understand that that has to be done because of the different CCTV technology and equipment that is used in different areas of the country. There must be a way to do that more quickly.

It is regrettable that that happened. The Crown Office and Procurator Fiscal Service has apologised to my constituent and to me for the failure to check the footage before the date of the trial. However, it should not have happened. We can perhaps put it down to the inexperience of the procurator fiscal depute, which was what my constituent said when she came to me about the issue. I therefore agree with Sheriff Principal

Bowen that, in every likelihood, compulsory meetings between the Crown and the defence will reduce the number of cases that go to trial, with more defendants pleading guilty early and the prosecution services getting stronger evidence to take cases forward.

On jurors, John Lamont said that that aspect was perhaps not within the report's scope; nevertheless, it is raised in the report. Jury service is an important public duty that must be undertaken, but members of the public who are called to do jury service worry about attending court. Most people who are cited to do jury service have never been in a court setting in their lives, so they worry about attending. However, constituents to whom I have spoken who have done jury service said that they had enjoyed the experience of seeing how our justice system works and being involved in it.

We could make that experience better, though. The call to jury service does not give people much notice. Many people who attend court find that the defendant pleads guilty at the last minute. That can be a wasted day for those who have to take time off work for jury service, particularly people in small businesses and self-employed people. Short notice can leave little opportunity for a juror to make alternative arrangements. A close family member of mine who is a civil servant was called to do jury service recently. She was told to phone after five o'clock each night to find out from a recorded message whether she would be required to attend court the next day. That is not acceptable for anybody who has work and family commitments. We should be able to do something to improve that situation.

The welcome alteration to procedure in sheriff courts is accompanied by practical recommendations that could prove to be efficient. Stewart Maxwell said that use of more television technology will be welcomed. He highlighted that the number of pilots in that respect is reducing, which is sad because I think that we could have gathered more evidence had there been more pilots. Why is the number of pilots being reduced? Where is that coming from? Is it from the Crown Office and Procurator Fiscal Service? As Stewart Maxwell pointed out, the costs of transporting to court people who are being held in custody in prison can be high. The price is not simply confined to finances because, to accompany accused persons, prisons are forced to sacrifice staff who act, in effect, as chaperones. The introduction of television links to the court would reduce the number of occasions on which prison staff must do that and it would free up time for other tasks.

However, we should sound a note of caution, because problems could be caused if a

technological glitch were to occur—for example, if the feed to the prison or the court was lost, that could cause delay and reduce efficiency. The point that Bill Aitken made in that respect is valid. The way forward is through the working group, as the report suggests.

I support the general principles of the review that Sheriff Principal Bowen carried out. I hope that they receive members' support tonight, as I am sure they will. The procedural and practical amendments that the report outlines will go some way towards reducing waste and bringing more efficiency to our sheriff courts, which can only be a good thing. I hope that we have a fair wind to take that forward.

15:49

**Nigel Don (North East Scotland) (SNP):** I, too, welcome the report. Any report from a learned gentleman who says, "This isn't quite within my remit, but I'm going to go there anyway and see whether I can sort something out," is to be welcomed. It is full of practical advice, which I, as an engineer, will always welcome. Pointing out that I am an engineer reminds me that I am not a qualified lawyer. I am, therefore, extremely grateful for the chapter that tells us how the system works. I commend that to anybody who would like to be reminded of how the system works. The only experience of it that I have had is of once sitting on a jury, but I will not recount that.

We are trying to ensure that we make better use of the courts' resources. Sheriff Principal Bowen pointed out that he was not trying to spend any more money and certainly was not trying to increase the resources that were available. I am, therefore, not the slightest bit surprised that he suggested that there should be a business meeting before a hearing to ensure that people have got their minds around the issues. He also pointed out that, in court, the procurator fiscal has a number of jobs to balance. The Lord Advocate might need to consider whether the amount of administrative assistance that is available to procurators fiscal is adequate. It is difficult to see how they can concentrate on the case in hand while they are worrying about how they will manage the rest of the day. That was a little aside that maybe needs to be looked at.

I take Bill Aitken's point about the use of television links. We might need to get used to the idea that there should be a defence agent at both ends of the link. If a significant amount of business is being conducted with a prison on the day, that might well make sense. There is no reason why there should be only one agent.

The point has been made well that we should improve the use of police time. Members have

also commented on the angst that is caused to victims and the inconvenience that is caused to witnesses. I will address those issues a little later.

Improved communication is undoubtedly a good part of any process anywhere. Sheriff Principal Bowen picks up the point that the communication between the procurator fiscal and the defence agent is not always what it might be. I appreciate that that is sometimes a matter of plain bad luck and sometimes a matter of bad timing with holidays. It will occasionally come down to personality, as things often do in life. However, if it is not obvious who within the Procurator Fiscal Service is taking on the case, one should hardly be surprised if the agent is not sure whom to talk to. That is another little nudge from Sheriff Principal Bowen in the direction of the Procurator Fiscal Service to get it to consider whether its systems are perfect. Communication between the agent and the accused has already been discussed, and we perhaps need to be a little bit more radical on that.

I do not want to discuss the business process any further, as it has been adequately covered. Nevertheless, I have a question that the minister might like to address about why it is appropriate for the time limit to be extended from 110 days to 140 days. I was a little confused by that. I presume that the other suggestions are intended to improve the system by speeding it up, so why would we want to extend it? One possible answer is that what is currently happening in the sheriff court is much more akin to what used to happen in the High Court. Maybe 140 days is the correct time limit and always was for such cases. However, I would be grateful if the minister could establish the logic behind that, at least.

The Mikado, wonderful fellow that he was—I will not sing any of the operetta—was intent on making the punishment fit the crime. I wonder whether we should be prepared to be a bit more radical in making the trial process fit the situation and whether Sheriff Principal Bowen has pushed the boat out far enough.

**Robert Brown:** Will the member give way?

**Nigel Don:** Forgive me. I will give way to Robert Brown in a moment.

It seems to me that there are a large number who come before our courts who are guilty—plainly guilty—who know that they are guilty and who ought to plead guilty. I am not at all sure why, in the name of democracy and justice, we should allow them to continue to mess us around. In those circumstances—not all circumstances, as there is a place for proper trials and things being properly decided—in which we know and the guilty man knows that he is guilty, why on earth should we give him the opportunity to go right to the end

of the process before saying, “Well, you’re a bad boy anyway. Here’s your punishment”?

I just wonder whether the discount system should start right from the beginning. It will depend on the discretion of the judge—the sheriff in this context—and it must depend on the quality of the evidence. The question is whether we should make it—

**Cathie Craigie:** Will the member take an intervention?

**Nigel Don:** Hang on a minute—I will just get this on the record before the member interrupts. The question is whether we should make it quite clear to the accused that, in those circumstances, he should plead guilty early or he will pick up the tab. I am not sure that we have pushed that point far enough.

If Cathie Craigie will forgive me, I will let Robert Brown intervene first—but there is plenty of time.

**Robert Brown:** The report makes a recommendation along those lines—that the discount should be looked at. However, the more central point is how we know—the member suggests that he knows—who those people are at the time. That is the problem.

**Nigel Don:** I do not know, and the court does not know—but the court will know in the end, in that the sheriff will be able to form a judgment on the totality of the evidence and on its quality. The sheriff can say to the accused, “You were fooling us all the way along—I am not having that.” As long as the accused knows from the beginning that that is the way it will be, and as long as he has a clear idea as to whether he is guilty, it seems perfectly appropriate for the quality of the evidence to be used and for the accused who messed the court around to lose his discount. At the beginning, the agent should say that the evidence is so complete that the accused should stop messing people around.

**Cathie Craigie:** This is an argument based on the idea of, “We know.” Many of us might know from the word go—we might feel absolutely certain—that somebody is as guilty as the day is long, but we live in a democracy and we have a justice system according to which someone is innocent until proved guilty. That is the process that we have to go through. As far as I understand—I cannot quite remember which bill this was—we passed legislation in the previous session that gave an incentive to the guilty person to plead guilty at an earlier stage. I am not sure whether the member, or even the minister, wishes to comment on whether that is working to speed up the system.

**Nigel Don:** I return to my original plea: I am not a lawyer and I do not know how well the system is

working but, reading between the lines of what Sheriff Principal Bowen has presented to us, I think that it might not be working as well as it might. That is why I said a few minutes ago that we need to consider whether to be more radical. At times when we have restricted resources, they should be going towards making sure that the innocent are proved to be innocent, and we should not be allowing the guilty who know that they are guilty and whose guilt will be proved to mess us around on the day.

We need to ensure that legal aid meets the same aspiration, and the sheriff principal gives the impression that things are not yet sorted in that regard. I am sure that ministers are well aware of that.

15:58

**Nicol Stephen (Aberdeen South) (LD):** I start by looking back to the context of the review. The need for reform to our courts has been well established. It was recognised by Jim Wallace—now Baron Wallace of Tankerness and Advocate General. In 2001, when he was Minister for Justice, he instigated the reviews that Stewart Maxwell has referred to: the review of High Court procedure by Lord Bonomy and the review of summary procedure by Sheriff Principal McInnes. It was natural that there should also be a review of solemn procedure in the sheriff court or, more accurately, of sheriff and jury procedures. Many people would say that this review is overdue, as it did not begin until 2009, after an eight-year gap. However, Sheriff Principal Bowen is to be congratulated on his work in chairing the review and on submitting his recommendations in time for action that I believe badly needs to be taken this session.

I well recall my time as a young court lawyer. I was always impressed by the institutions, their importance and the quality of many of the individuals who work in our courts and our court system, but they are overwhelmingly archaic, outdated places and many of their practices and procedures could benefit from major reform.

The truth is that the pace of change over the years has been extremely slow. I had a similar sense when I was first elected to the House of Commons and saw the arcane, outdated procedures there. They were good for tourists and visitors but no way to run a modern, 21<sup>st</sup> century democracy. I am glad that this Parliament has tackled many of those issues.

Major change can be delivered and we should not try to defend the indefensible. For far too long, lawyers and judges have collectively done exactly that.

Everyone I know in the legal profession wants change. The lawyers, sheriff clerks and prosecutors want change, but the block was often considered to be the judges, so it is encouraging that the reforms are being led by a sheriff principal—a senior judge.

Sheriff Principal Bowen has benefited from not only the recommendations of the Bonomy and McInnes reviews but the lessons that have been learned from their implementation. The challenge is to achieve a fast and efficient procedure that remains fair and just and allows time to ensure rigorous examination of complex issues. The presumption of innocence should remain paramount, but procedures can be made far more efficient.

The introduction of a new approach at the preliminary or first diet, under which a trial diet would be fixed only once the court was satisfied that all outstanding issues had been resolved, is crucial and should make a massive difference. Having to cite witnesses in more than 6,000 indictments in the likelihood that about 1,000 will go to trial is a massive waste of time and resources and brings the whole justice system into disrepute. Sheriff Principal Bowen makes it clear that he regards that as simply indefensible. It is a huge waste not only of time but of public money and, in the current environment, that is particularly unacceptable.

However, to echo Nigel Don's words, if we are considering a faster, more efficient system, I question whether removing the 110-day rule and extending the limit to 140 days is acceptable or consistent with the review's main objectives.

**Stewart Maxwell:** I am curious to know why the Liberal Democrats, including Nicol Stephen, supported the extension from 110 days to 140 in the High Court but think, for some reason, that it is unacceptable, unworkable or unfair in the sheriff court.

**Nicol Stephen:** Of course, the extension has been considered in these circumstances as well. It was proposed previously, but the Liberal Democrats rejected that reform when in government. As I recall, the Scottish National Party shared that position in opposition and it will be interesting to see whether the cabinet secretary accepts the recommendation in due course. I do not believe that there would be a parliamentary majority for the change.

It is vital that prosecution and defence lawyers communicate more substantially and openly, so the compulsory business meeting is important. It is also important to ensure that the defence and the Crown have full information—including detailed forensic reports and CCTV coverage—well before

the first diet. Far too often, cases are called to trial when they are simply not ready to proceed.

The culture is important in that regard and we must change it. As Robert Brown mentioned, there is a big responsibility on defence and prosecution lawyers to co-operate and work efficiently. An important part of that change of culture is to seek not only full but early disclosure.

It beggars belief that we have outdated procedures that lead to the delays that we experience. That level of inefficiency and wastage in the early years of the 21<sup>st</sup> century must change. It is time for change.

Sheriff Principal Bowen has produced a good review. My greatest concern is how quickly his important and wide-ranging changes will be introduced. In short, there is an opportunity to go further sooner and for the winds of change to blast through the dust and cobwebs of our outdated court procedures. It is time for reform.

16:05

**Ian McKee (Lothians) (SNP):** It gives me great pleasure to speak in support of the motion, not only because I welcome in general terms Sheriff Principal Bowen's excellent report but because I personally have several times been on the receiving end of inefficiencies in court procedure. Many of those inefficiencies should be removed if the report's recommendations are put into practice. Let me give just some examples of how witnesses have often been treated in a cavalier manner.

My first example comes from the High Court, but it illustrates a more general aspect that also happens in the sheriff court. Some years ago, when I worked in general practice, I was asked by the police to attend a patient of mine who seemed to be dead. When I entered the house, it was not difficult to confirm that fact, as I noticed a large carving knife buried deep in his chest. The only difficulty was that the police wished me to touch the body as little as possible because, quite reasonably, they suspected that he had been murdered. However, all that I had to do was confirm formally that the victim was dead by, using one of the rather quaint terms employed in the justice system, pronouncing life extinct. I made the necessary statement, gave my age—which seems to be a requirement in any police inquiry—and left the police to their investigations.

Months later, after a person had been charged with murder, I was cited to attend court as a witness and was told that I might be required for a few days. My appointment list for patients was duly closed and I attended at 10 am on the morning of the trial. Several hours passed without anything happening, during which I was

incarcerated in a tiny room with a group of people, most of whom seemed to be witnesses for the defence. As I was, nominally at least, a prosecution witness, I found that slightly intimidating. Finally, someone came into the room and told us all that the trial would not now start until the next day so we should all report at 10 am the following day.

The next day, I again turned up and was again put in the same tiny room with all the same people as on the previous day. At about 11 am, people started to be called away from the room and there were definite sounds of activity in the building. After a while, I asked what was happening, only to be told that the trial had started. At that stage, I asked what I considered to be a not totally unreasonable question, "How can the murder trial have started if they have not yet formally heard that the victim was pronounced dead?" The court employee went away only to return some minutes later to say, "You can go home now. You aren't going to be called."

That is the most florid example that I can remember of how the courts have disregarded my interests as a witness. I hope that Lord Bonomy's review has improved the situation in the High Court, but my professional life is littered with examples of turning up as a witness only to be released at the last minute. I can presume only that defence lawyers advise even those who are patently guilty to wait until the last minute before pleading guilty in case, Mr Micawber-like, something turns up, such as the death or failure to appear of a vital witness.

On another occasion, I was in the witness box when it turned out that the sheriff would allow me to give evidence about a patient's notes only if I personally had made the entry. As general practitioners normally enter notes as part of a continuum of recording, entries such as "No change since last visit" are meaningless if the GP cannot say in court what happened on the previous visit to which the entry made by a professional colleague refers. Therefore, my evidence was totally useless. Could that not have been established in advance of the court case?

In another trial, in which I appeared as a witness for the defence in the case of an asthma sufferer charged with driving under the influence of alcohol who claimed that he was physically unable to provide a breath test, the whole proceedings had to be delayed and repeated because, when I took the stand, the sheriff insisted that, before the trial could continue, I personally should go through the breath-test process so that I could attest to the strength of the puff needed. Fair enough. However, could that not have been stipulated in advance of the trial in order to save valuable court time, let alone my time away from my practice?

Over a lifetime in general practice, I must have missed weeks of work due to court inefficiencies. Obviously, the same is true for the thousands of witnesses who must have had similar experiences. Think how much incredibly valuable police time has been wasted in similar procedures. The country has paid a high price for legal inefficiency, so it is not before time that things are being put right.

Therefore, I strongly support the proposition that the first diet should become the proper clearing house for cases going to trial and a forum where outstanding issues are resolved.

It is appropriate for the period between indictment and first diet to be increased from 15 to 29 days to enable that to happen. I strongly support the proposal to make compulsory the holding of a business meeting between the Crown and the defence before indictment in the hope that it will result in a higher number of guilty pleas by those whose guilt is obviously beyond doubt when all the circumstances are known. I extra-strongly support the recommendation that witnesses should be cited only once it is known that the case will proceed to a trial and that the statutory time limits for commencing trials in sheriff and jury cases should be extended to 140 days for people in custody, in line with the High Court time limit, which would allow best practice to be observed.

Like my colleague Nigel Don, I am not a lawyer, so I hesitate to recommend further reform, but I will do so nonetheless, perhaps only to be shot down by people who have greater legal experience. Although it is extremely important that people are not pressured into pleading guilty when they might be innocent, why should we not compel people who will not say what their plea will be to make a plea of guilty, if that is what they intend to do, a certain time before the case comes to court? If they did not do so, they would have to make a plea of not guilty, which they would not be allowed to change. If the case went to trial and they were found guilty, they could receive a higher sentence because they had pleaded not guilty. That is just a suggestion.

I have spoken mainly in my capacity as someone who has experienced and suffered from the ramshackle and out-of-date procedures that are now being put right. I commend the report to Parliament and support the Government motion.

16:11

**John Wilson (Central Scotland) (SNP):** I congratulate the cabinet secretary on the motion. I believe that the Scottish Government is attempting to develop a realistic approach to summary justice reform, and the report by Sheriff Principal Bowen contributes to that process. Like other members, I

do not bring to the debate a legal background, and it has been some time since I was a member of the Justice Committee.

In the summary justice reform model that it produced in 2007, the Scottish Government set out that it wanted to improve the effectiveness of the courts in Scotland and to ensure that only cases that should go to court do so. In essence, Sheriff Principal Bowen's report gets to the heart of substantial legal issues. It raises the prospect of legal aid provision for jury and sheriff cases being reviewed, which would support the timely resolution of such cases.

Although I do not have a legal background, I have some knowledge of legal issues, especially in the context of modern workplace and employment law. I believe that Sheriff Principal Bowen's recommendation on the introduction of a new compulsory business meeting to bring together the Crown and the defence to discuss a case at an early stage in proceedings will result in a fundamental change for the better, as others have said. If justice in the wider context is to warrant continued public confidence, it must be seen to work smarter and more effectively.

By establishing a wide-ranging reference group at each stage of his review, Sheriff Principal Bowen quite rightly embedded ownership of the review, while recognising that the role of sheriffs in dealing with serious criminal cases has changed over the past 20 years. There has been a substantial change in the complexity and volume of cases. By 2008, the number of persons indicted for proceedings in the sheriff court had risen to 8,022.

Sheriff Principal Bowen quite rightly commented on existing good practice by the Crown Office and Procurator Fiscal Service in local areas and gave the example of the good-practice initiatives that the COPFS in Inverclyde undertook, which were rolled out nationally.

As others have said, the report makes a number of practical recommendations, which include, significantly, widening the use of television links between courts and prisons, making greater use of standby arrangements for witnesses and ensuring continuity of sheriffs in cases.

The Scottish Government has recognised the growing demand for change in procedural matters. The review of sheriff and jury procedure builds on the experience of the Bonomy and McInnes reviews. Modernisation should be welcome. Despite the desire to ensure that uncomplicated cases are disposed of more quickly, the review had to be mindful of the need to ensure that there is robust assessment of more complex matters.

Some people may say that, against the backdrop of the aim to simplify dealings, Sheriff

Principal Bowen indicates that there could well be a case for bringing sheriff court processes in step with High Court procedures by introducing preliminary hearings, which have reduced the number of abortive trial diets, with resultant savings to the court services. However, Sheriff Principal Bowen did not recommend that as a necessary step change because he did not believe that

“the essentially simple issues in a large number of Sheriff Court cases justify elaborate and lengthy pre-trial hearings.”

The costs associated with the legal system have been much in the spotlight, and I know that the intention of the review is to seek longer-term savings. It is clear that, in the current economic climate, we all need to pay our fair share, so I would be grateful if the ministerial team could outline what levels of financial savings are associated with implementation of the recommendations.

John Lamont, Cathie Craigie and Ian McKee in particular—with his description of his personal experience of going to court—clearly highlighted some of the issues that many witnesses face. I know from the experiences of my constituents that there is nothing worse than people taking time off to undertake their civic duty. A key recommendation is to cite witnesses to give evidence in a case only once it is known that it will proceed to trial. That will, I hope, ensure an element of trust and reduce the level of inconvenience to people who are constantly being called away from their place of work when they are not required to give evidence.

As others have already said, such necessary procedural changes will, we hope, mean that the proposal of statutory time limits for sheriff and jury cases in line with the 140-day limit in the High Court will guarantee better benefits.

**Robert Brown:** If we leave aside the specifics of a case, is there not a general rule in these matters that the longer people are given, the more complicated a case gets and the more likely it is that people will use the further delay to their own advantage? Does the member not think that there are big questions about the extension of the 110-day rule in the sheriff court unless it is absolutely necessary?

**John Wilson:** The extension of the time limit will, I hope, allow people to come to court prepared to go forward rather than to ask for further time to prepare. I hope that the extension will allow cases to go forward and people to be better prepared when they go to court.

Additionally, the review addresses some of the concerns about service delivery for the public purse as detailed in the justice efficiency delivery

plans. Best practice and performance are a major element of Sheriff Principal Bowen's recommendations. As stated earlier, no debate on any legal aspects could fail to raise the matter of legal aid, so I reinforce the position that legal aid provision should be reviewed and that we should bring an end to some of the more questionable legal aid awards. I would have preferred a meaningful contribution, but Sheriff Principal Bowen raises the prospect of using block fees so that the legal profession could use incentives to seek early resolution to some cases.

Let me put on record my desire to see just and speedy resolution to prosecution in the Scottish court system. I welcome the debate and the principles in the motion, and I look forward to the Scottish Government's commitment to streamlining procedures. I thank all those who contributed to Sheriff Principal Bowen's reference group, and I put on record my appreciation that Sheriff Principal Bowen was able to deliver the independent review to the timetable originally set out, which is highly unusual for such reviews.

**The Presiding Officer (Alex Fergusson):** We move to the closing speeches. I point out that we have a little time in hand, so I will not be too strict about stopping members unless they go on much too long.

16:19

**Mike Pringle (Edinburgh South) (LD):** The Scottish Liberal Democrats welcome Sheriff Principal Bowen's review, which we hope will lead to the elimination of waste from the system and the streamlining of procedures within the sheriff court. It is only when we see the facts on the increase in the volume of summary business that we realise, as Nicol Stephen said, that such a review is perhaps overdue, although I do not think that anybody is to blame for that. In the past four years, there has been a considerable increase in the volume of solemn business—an 8 per cent increase in the total number of petitions since 2005-06.

During that time, there has also been a 9 per cent increase in the number of sheriff and jury indictments. There is a growing trend for indicted sheriff and jury cases where the accused is remanded in custody. Between 2005-06 and 2008-09, there has been a rise in the number of custody cases as a proportion of the total number of cases for sheriff and jury business from 28 to 35 per cent. That only puts more pressure on the system. It is also worth noting that, of all the sheriff and jury business and the business indicted, only about 16 per cent proceeds to the stage at which evidence is heard. The rest of the business is dealt with in a variety of ways.



The aim of the review is to improve sheriff and jury procedures as they apply to solemn business in the sheriff court, which will make it much more efficient—as it needs to be. The proposed model seeks to reduce the impact on victims, witnesses and jurors. However, it will also reduce waste and inefficiency—which is important, in the current economic climate—improve speed of disposal, achieve earlier and efficient communications between parties and increase public confidence by getting quicker results.

So, what are the problem areas with solemn procedure in the sheriff court? Currently, the accused is served an indictment and given a date of the first diet and trial sitting, which means that all witnesses have to be cited to appear at that diet. As 84 per cent of such business does not go to trial, that is a complete waste of time and money from the point of view of witnesses.

During the review, many sheriffs said that they thought that the first time that the Crown and the defence agents appeared to speak to each other was at the first diet. It is hard to believe that that is still the case, in this modern age but, clearly, it is. I agree with the minister that that sort of improvement is fundamental.

The increased use of forensic reports in many more cases can now be the catalyst for agreeing an early plea. Currently, it seems that the late production of forensic reports results in adjournments of cases at first diet.

The fact that, often, the first time that the Crown and the defence appear to speak to each other is at the first diet almost inevitably results in continuation. The lack of preparation by both parties is almost always the reason for delay at the first diet. The common view is that cases are called for trial that are not ready to proceed and have to be delayed. During the review, the reasons for delay and adjournment that were cited by Crown and defence agents were that evidence that went beyond the simple provision of statements, such as CCTV evidence and forensic evidence, was just not ready.

Sheriff Principal Bowen's recommendations will improve the system, save time—particularly for witnesses—save money and conclude cases more quickly. That will not only benefit the accused, but reduce the impact on victims, because they will know the result of proceedings more quickly.

The first proposed improvement involves indictment to a first diet. The recommendation is that cases that are brought by way of indictment in the sheriff court should not involve the fixing of a trial diet. When the indictment is served, cases should be indicted to a first diet, and the court will allocate the case to a trial sitting. As Stewart Maxwell said, that will happen only once the court

is satisfied that all outstanding issues have been resolved at the first diet. Nicol Stephen highlighted just how many witnesses were cited to appear for no good reason and ended up wasting their time sitting in waiting rooms, as Ian McKee did. On that point, I say to Ian McKee that I have spent a considerable amount of time in waiting rooms waiting to see a doctor. We must conclude that witnesses should be cited to give evidence in a case only once it is known that the case will proceed to trial. That will reduce not only inconvenience to witnesses, but the cost of the process.

The second recommendation is that there should be a compulsory business meeting to bring together the Crown and the defence to discuss cases at the earlier stage of proceedings. That would result in parties being better prepared for court appearances and produce a higher number of guilty pleas at a much earlier stage.

Cathie Craigie highlighted an example from her constituency of the problems that are involved in getting the Crown to view CCTV evidence. I am currently dealing with the case of a constituent who wanted to get CCTV evidence before he went to trial. He asked the Crown Office on three different occasions for the evidence. Sadly it was only as a result of my intervention—I chased the Crown Office—that he finally got a letter that said, "We now have the CCTV evidence." It took about six weeks for that to come through. It is clear that the system needs to be improved.

It is recommended that a proper note of the compulsory business meeting is prepared by the procurator fiscal, signed by both parties at the end of the meeting and lodged by the Crown with the court at least seven days prior to the first diet. I hope that that will work.

Changes to the first diet are needed. One change is that the period between the service of the indictment and the first diet should be extended to 29 days from the current 15 days to allow issues that become apparent following the service of the indictment to be addressed. In the case of my constituent who tried to get the CCTV evidence, 29 days would not have been long enough. The objective is to move to a position whereby the first diet is regarded as the end point for discussion by both parties. First diets should work as intended, as a clearing house for cases that are going to trial. That is new and will require a fundamental change of mindset by the Crown and the defence so that they appear at first diets fully prepared and do not need to seek continuations thereafter. In order to make that happen, some alterations to time limits are proposed.

There has been much discussion about that, and I agree with the minister that we should

examine it carefully. Nigel Don gave good reasons to support his concerns about an extension to the time limit, and I confess that I also have concerns. There must be a reason for the extension, and the only one that I can think of is that it would allow the Crown and the defence more time to prepare their case, which I am sure is sometimes necessary.

I referred to forensic evidence. It has been suggested that, as far as good practice is concerned, there is no reason why the Crown should not disclose the initial results of forensics tests to the defence when it receives them. That will, I hope, be as a result of the CBM, as all parties must agree everything at that stage. That suggestion means that immediately the results are available to the Crown, they should be given to the defence. It also suggests that the legal aid provision for sheriff and jury cases supports early resolution of cases.

I welcome the report. Sheriff Principal Bowen has done an extremely good job, as others have said. The report went beyond the remit, which is most unusual, and is good news. The changes that the review recommends will result in more speedily administered justice, which benefits all parties. As Nicol Stephen said, we should get on with it and get the recommendations into legislation as soon as possible.

16:28

**Bill Aitken (Glasgow) (Con):** Since the end of the 1980s the number and complexity of cases that are dealt with by the sheriff court has undergone remarkable change. As the review highlights, that rise can be attributed partly to the increase in sentencing power to five years, which means that the court can now deal with more serious cases.

Furthermore, the length and complexity of trials has undergone a notable increase—for example, due to the development of DNA evidence, the examination of mobile phone records and computer drives and the use of CCTV images, to which Cathie Craigie referred.

However, despite the changes and increased complexity, Sheriff Principal Bowen notes in his report that the system has retained a remarkable resilience in its ability to adapt to all that comes its way. Although one might argue that he would say that, we must remember that while the system has remained resilient in the face of such change, it was not created specifically to accommodate the new features that have emerged from developments, and we must take that into consideration.

The thinking behind this very good report is remarkably sound and I am particularly attracted by Sheriff Principal Bowen's statement that the

"Review has been conducted in the full knowledge of the stringencies likely to be imposed on public ... spending in the foreseeable future."

I know that James Kelly will be paying avid attention at this point, as he usually agrees with me that the public purse must be a principal consideration in all that we do.

Most of the proposals are only common sense; indeed, the chamber might well feel that some of them should have been implemented long ago. For a start, it is only common sense that cases should be indicted to a first diet. When allied to other recommendations, such a move could help to put in place a case management structure. Every second Monday, hundreds of people—jurors, witnesses, accused persons and agents—wait at Glasgow sheriff court. Once the sheriffs' shopping has been carried out and pleas have been agreed—depending, of course, on who is on the bench for any particular case—matters may proceed. However, very little actually proceeds on the first Monday of any sheriff and jury sitting. That cannot be in the public interest and is certainly not in the interests of the witnesses and jurors to whom Mike Pringle referred.

The same sheriff who presides over the first diet should see things the rest of the way through the system. If the accused is unfortunate to come before a sheriff who in the Glasgow vernacular would be called a hard batter, he will simply have to decide whether to plead guilty or go to trial; if, on the other hand, the sheriff is somewhat more lenient, the accused has—as the Glasgow vernacular again has it—won a watch and will no doubt plead.

In that respect, Nigel Don should perhaps pay attention to the fact that under the so-called Du Plooy discounts anyone who pleads at any early stage can have up to a third of their sentence discounted. There are arguments against such a system; for example, should someone who is caught bang to rights on CCTV carrying out their serious assault get the same sentence as someone whose conviction might be a lot less certain? The Parliament might well debate that matter in due course, but the fact is that under the current system anyone who adheres to their not guilty plea in the face of overwhelming evidence loses their discount. Although the sentence is not added to, the net effect is the same.

The compulsory business meeting is essential, as it will allow all the uncertainties in the proceedings to be sorted out. It is right that they are informal, face-to-face meetings, but a very careful record must be kept of the issues that have been discussed and the issues that are

outstanding so that when the case is called the sheriff can interrogate the facts and ensure that the case is subject to trial. Although at the end of the day, such a move might, like the Bonomy reforms, not result in earlier pleas, it will ensure that an awful lot fewer people get messed about. The jury might well be out on the effectiveness of the Bonomy reforms—for example, pleas have not been agreed to the extent that we might have wished—but trouble, trauma and inconvenience to witnesses and potential jurors has been greatly reduced. That, in itself, is a very positive result.

That is not to say that there is nothing in the report with which I have difficulty. First, I have always been troubled by the proposal to extend the 110-day rule to 140 days. Indeed, when the Parliament previously debated the matter in the context of High Court reforms, the cabinet secretary himself expressed reservations and I know that Robert Brown, too, shares them. As members will observe, I am quite enthusiastic about locking people up; I just require them to be guilty first and an accused person is entitled to the presumption of innocence. People who spend time in custody and who eventually are acquitted have a real sense of grievance, particularly in those occasional cases, as Nigel Don described them, when they are in fact innocent.

Engagement with the solicitor is vital. I would have gone further on that than the sheriff principal does in his report. It is not sufficient at the petition stage for the sheriff to tell the accused that they must co-operate with their solicitor. Really, there must be active engagement. How often in sheriff courts, district courts or even the High Court is there the representation, “We have not been able to get instructions,” when the accused person is on bail? That is one of the oldest tricks in the game to get a continuation. At that point, the sheriff simply has to agree to an adjournment, which is not on.

There is also the question of reluctant witnesses. Witnesses might not turn up in court for various reasons, the occasional one of which is genuine. However, in the vast majority of cases, witnesses do not turn up for one of two reasons. One is the very serious reason that they have been intimidated. The full rigour of the law must be brought against those who are prepared to attempt to pervert the court of justice in that respect. The second reason, which is more common, is because the case arose from an incident, usually as a result of indulgence in alcohol or other dubious substances, that resulted in an assault to severe injury. There is great animosity at the time but, after the indictment is served, somewhere down the road, those involved are all good friends again and that clappy-happy relationship means that the witness is reluctant to testify against his

friend, whom he may have known for many years. That must be addressed, too.

I will reiterate the problem that I have with the use of technology. Having read the relevant paragraph in the report again, it seems that Sheriff Principal Bowen is of the view that, as there is no longer a requirement for the accused to sign the indictment, a sheriff could proceed to sentence when the accused appears before him on a television screen. That is not satisfactory, for two reasons. First, when sentencing, the sheriff has to look at the accused’s body language. Secondly, and much more important, if something that the procurator fiscal says in court is not in line with what has been agreed, the accused has no opportunity to raise that with his agent.

The report is good and provides a good way forward, but there are one or two issues that must be considered.

16:37

**James Kelly (Glasgow Rutherglen) (Lab):** I am pleased to close the debate on behalf of the Labour Party. As other members have done, I thank Sheriff Principal Bowen for his contribution in putting together the report. I also thank the team that worked on the report, which is a comprehensive and important piece of work and a major contribution to the discussion of the sheriff and jury system in Scotland. The report highlights the importance of the court process. It covers, among other issues, the impact on victims and witnesses. The point that comes out is that it is absolutely crucial that the correct result is arrived at once the process has been gone through. Therefore, it is crucial that we get the reforms right to improve the process.

As many members have said, there has been a vast increase in the number of cases that go through the sheriff court—the figure rose from 3,064 in 1988 to 8,022 last year. That is a tremendous increase that has obviously put a great deal of pressure on the system. As the cabinet secretary said, there are sound reasons for that increase, including the increase in sheriffs’ sentencing powers.

The cabinet secretary also pointed out, with some justification, that the system has not fallen apart under that pressure, but that was at odds with the comments from Nicol Stephen, who drew on his time as a solicitor. He spoke about the inefficiency of the process and how slow it is and appealed to the chamber to move things forward to produce a more efficient judicial system in the sheriff courts. He said that although 6,000 witnesses might be cited, only 1,000 of them are brought to court. That demonstrates a huge inefficiency and underlines the need for the

compulsory business meeting that many of today's contributors mentioned. The purpose of such a meeting would be to bring together the various parties to act as a clearing shop and to improve communication, so that we can get a more efficient process that streamlines the system and produces quicker decisions. It makes sense to increase the time from indictment to first diet from 15 to 29 days to improve the communication process.

Robert Brown and Richard Baker spoke about the inexperience of procurator fiscal deputes, which is a matter of concern. If, as the report outlines, experienced defence agents are up against inexperienced procurator fiscal deputes, there is potential to skew the process unfairly in the defence's favour. The sheriff principal made some practical suggestions to improve the experience of procurator fiscal deputes, including allowing them to sit initially in quieter courts and the introduction of a mentoring process. The problem is not easy to address—as in any area of life or work where a lot of expertise is required, experience must be gained. The sheriff principal has made an important contribution in that area.

As many speakers said, the priority must be victim support. It is traumatic for a victim to go through a trial process and we must minimise any potential for them to take the stand. We must also ensure that victims have appropriate support—communication is key. Several members spoke about their constituency experience of victims of crime. It has been my experience that victims are not communicated with properly as the process makes its way to a conclusion, resulting in increased stress for victims at a difficult time.

Ian McKee gave a good account of his experience as a witness. The amount of intimidation of witnesses that takes place is an understated issue. The report makes the key point that infrastructure must be updated where that has not already been done to ensure that defence and Crown witnesses are held in separate rooms. That would reduce intimidation and give support to witnesses who could then give a proper account when they got into the witness box.

There was an interesting exchange between Stewart Maxwell and Bill Aitken about TV links. As Stewart Maxwell said, a working group on the issue could be set up with the aim of reducing the need to take the stand and, where appropriate, allowing people to give evidence via a TV link. I hope that that would reduce the amount of time that police officers would need to spend in court. John Lamont quoted statistics on the amount of police time that is tied up in court. We should be moving away from that and getting police officers back on the beat so that they can protect the public and help solve crimes.

Several interesting contributions were made on the subject of jurors. I have been a juror twice—in the sheriff court and in the High Court. I was one of the individuals whom Bill Aitken spoke about who arrived at Glasgow sheriff court on a Monday morning. In fact, it was late on Tuesday morning before the jury was eventually sworn in. We were left sitting about and were not informed about what was happening. I will not give away any secrets of the jury room, but it was not quite “12 Angry Men”—I kept waiting for Henry Fonda to turn up in his white suit, but it did not happen.

From that experience, I formed the strong impression that the public take their responsibilities as jurors seriously. It is quite a task to decide whether someone is innocent or guilty, which could mean that they go away for a prison term. The process is difficult and we must give jurors appropriate support. As Cathie Craigie said, people's working and family lives could be disrupted by jury service. Richard Baker gave the example of someone who was called to be a juror for five days but who spent only three hours on the jury. We must bear in mind such situations, on which the sheriff principal makes salient points.

Legal aid should be used appropriately to help conclude processes speedily. Legal aid budgets are experiencing pressures. The report says that, between 2005 and 2009, legal aid costs increased by 7 per cent and solicitors' fees increased by 16 per cent. We need to examine that issue closely. The new guidelines that have been introduced to give suspects access to a lawyer will increase the pressure on legal aid budgets.

The Labour Party supports the Government's motion and the Tory amendment. As Bill Aitken said, it is important to consider costs and to have an efficient justice system. I agree with the Liberal Democrats that we must make progress urgently and that the Government should work with the relevant parties.

The Labour Party welcomes the review's publication. We support the proposals, which will lead to a more sound justice system that operates more effectively and helps to deliver justice for the victims of crime.

16:47

**The Minister for Community Safety (Fergus Ewing):** The debate follows the report from Sheriff Principal Bowen, which, as Nigel Don said, starts with an extremely useful guide for non-solicitors to how the system works. The report is also a good read. It is straightforward and is written in simple terms. More than that, it sets out a series of recommendations that have enabled the debate to be extremely useful, as it has aired most subjects of controversy fairly well.

I welcome the broad consensus and the progress that we are making in the review of sheriff and jury procedure. As members have said, it is important to implement the reforms, to complete the process of reviewing all parts of the criminal justice process. After the summary justice reforms by Sheriff McInnes and Lord Bony's review of High Court procedure, the review of sheriff and jury procedure is another piece of the jigsaw. We are extremely grateful to Sheriff Principal Bowen for his report.

On Monday, I attended Strathclyde Police headquarters to look at the force's work on CCTV evidence at its digital media intelligence unit. In paragraph 1.1 of his report, Sheriff Principal Bowen says that one reason for the length of and increase in the number of cases is CCTV evidence. I am sure that members who have seen CCTV footage are well aware of its value in providing evidence to help to secure prosecutions, particularly for offences against the person.

When I visited Hamilton to view late-night work to tackle crime and antisocial behaviour, I saw a gruesome piece of footage. It showed a gentleman who, after a good night out, was waiting at a bus stop and decided to have a little sleep on the grassy embankment above it. Unfortunately for him, as the CCTV camera recorded all too graphically, while he was asleep he was stabbed repeatedly by two youths. After stabbing him time after time, they came back and had another few stabs—presumably, just for more pleasure. Rightly, the CCTV evidence led to the conviction of those two individuals. I pay tribute to Assistant Chief Constable Ruairaidh Nicholson, ACC George Hamilton, Detective Sergeant Lorraine Anderson and all their colleagues, who do such excellent work in that regard.

CCTV is relevant as a factor in the process and is a great help in securing the objective that many members have described—an early plea. If those who have committed crimes are confronted at an early stage with incontrovertible evidence showing them, on film footage, that they have done so, it makes them somewhat chary of going to a trial, as CCTV cannot expire, die or fail to turn up.

Sheriff Principal Bowen makes a series of recommendations to reflect the changed situation. In responding to the debate, I will touch on some of his arguments, starting with the issue of TV links. Stewart Maxwell kicked off discussion of the topic and pointed to the great need for TV links to be used for female prisoners. We will give serious consideration to the points that he made. Members are right to say that we should proceed with care, but we will look with sympathy at the recommendations in paragraphs 9.4 and 9.5. The proposal to establish a working group seems to have merit.

I draw members' attention to the fact that Sheriff Principal Bowen

"observed the use of TV links on a visit to Liverpool Crown Court in relation to hearings preliminary to trial."

He records that, in the cases that he observed,

"The accused's representative was able to use the court link to speak to their client prior to the case calling in court and was offered the opportunity to do so after the court hearing. There was minimal delay in having the accused appear 'on screen'; less indeed than one would often expect where the accused has to be brought from the cells to the dock."

Nonetheless, we must consider carefully Bill Aitken's point about whether TV links are sufficient as a medium to allow the accused to respond to material that emerges unexpectedly in the course of a fiscal's address to the court about what sentence might be appropriate. As Stewart Maxwell deftly replied, a working group would look at that issue. The recommendation is useful, and we will take it forward in a sympathetic fashion.

Inevitably, given that there are so many recommendations, some have not received a great deal of attention. The report recommends that

"The Crown should disclose the initial results of forensic tests to the defence when they receive them, where there is no operational reason to prevent it";

that there needs to be informal dialogue about the performance of new fiscals; that

"Greater use should be made of standby arrangements for all witnesses where possible, not just for police officers but also for civilian witnesses";

and that

"Greater use should be made of existing measures to address the issue of reluctance of witnesses to attend".

That illustrates the comprehensive nature of Sheriff Principal Bowen's recommendations.

I turn to the area of most controversy, which Nicol Stephen set out in the most trenchant way. I refer to the 110-day rule, which states that, where the accused in sheriff court solemn cases is in custody, the trial must be commenced within 110 days of the event, so that the accused does not spend longer than 110 days awaiting trial.

Although I have no personal sheriff court jury experience, I have some familiar experience, as my mother was involved in one sheriff court jury trial, at a time when the rule was slightly different. At that time, the case had to be concluded within 110 days. There was a happy day for the defendants in that case, who were represented by my mother and one David Smith—as some members will know, David Smith was a distinguished and very interesting sheriff in Kilmarnock sheriff court. The defence agents made an application for release of all three parties

because the Crown had failed to compute that the year was a leap year and had failed to take account of 29 February. Of course, my mother, David Smith and the other defence agent, like most solicitors and advocates, were not numerate at all, but my father was a chartered accountant and was on hand to carry out the mathematical computation. Mr Aitken will remember from his council days that he was able to do that. The defendants therefore walked free. Whether they were not guilty is a matter of some debate.

**Robert Brown:** Has Mr Ewing noticed the footnote on page 77 of the report? It says:

“There is no national recording of extensions to the time bar in sheriff and jury cases.”

Should that influence our view? We do not have information about how often extensions are applied for or granted under the current system. Is that significant information that we should look to have before we move forward?

**Fergus Ewing:** That is a reasonable point. However, I understand that Sheriff Principal Bowen’s view is that extensions to the 110-day period in sheriff court solemn cases are relatively rare in comparison with extensions in the High Court. I do not think that that is a matter of controversy. The period is 140 days in the High Court and 110 days in sheriff court solemn custody cases. Therefore, there is already a difference. One might argue that, if one is in a cell, why should one have a protective period of 110 days simply because one is being tried in a different court, whereas there is a 140-day period for another type of charge? There is a discrepancy.

It is important to record that Lord Bonomy described the 80-day rule—that is, the indictment must be served within 80 days of committal for trial—as the “jewel in the crown” of the Scottish criminal justice system, and that he recommended that we adhere to that rule, tight though it is, in meeting the requirements involved. However, it is also important to consider chapter 6.37 of the report. As I understand them, Sheriff Principal Bowen’s proposals should be regarded as a package. He recommends that there should be an increase in time to enable business to be dealt with properly, but he goes on to say that balancing the time available for a case and the protection of the accused who has not been convicted

“leads to substantial inconvenience to the public and professionals who are drawn into the criminal process. It is not possible to resolve these issues without changing the system.”

**The Presiding Officer:** Order. I am sorry to interrupt you, minister, but there is far too much background noise. Members should keep quiet, please.

**Fergus Ewing:** Sheriff Principal Bowen says:

“You cannot pack more and more priority cases into the system and require such cases to be prepared more effectively unless there is a significant increase in resources made available to those organisations involved in the court process. You cannot have it both ways. The alternative is that the system has to adjust.”

No one would wish to be so unkind as to say that the Liberal Democrats are genetically programmed to want to have things both ways. However, Sheriff Principal Bowen makes it clear that the proposals are a package. If we want the improvements—more time for cases to be disposed of, section 76 procedures to be used more, fewer witnesses to be inconvenienced, fewer police to spend their time hanging around court waiting rooms and court business to be dispatched more efficiently—the case that he has made for changing the existing 110-day rule is compelling. It is plain that we all must consider the matter carefully, but the case has been well made by Sheriff Principal Bowen.

In conclusion, I thank all members for their contributions, especially Nigel Don, who at one point gave the impression that he was proposing the consignment to the knacker’s yard of the presumption of innocence, thereby destroying his previously impeccable liberal credentials. However, it then appeared that that was a premature judgment and that he was simply advocating that a system of discounts was fair and reasonable. That is a conclusion with which I think we all can agree.

## Parliamentary Bureau Motions

17:00

**The Presiding Officer (Alex Fergusson):** The next item of business is consideration of Parliamentary Bureau motion S3M-6645, in the name of Bruce Crawford, on committee membership.

*Motion moved,*

That the Parliament agrees that—

Mr Frank McAveety be appointed to replace Rhona Brankin as a member of the European and External Relations Committee;

Mr Frank McAveety be appointed to replace Cathie Craigie as a member of the Public Audit Committee;

Cathie Craigie be appointed to replace Mr Frank McAveety as a member of the Public Petitions Committee.—[*Bruce Crawford.*]

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

## Decision Time

17:00

**The Presiding Officer (Alex Fergusson):** There are 11 questions to be put as a result of today's business. I remind members that, in relation to the debate on tourism, if the amendment in the name of Jim Mather is agreed to, the amendment in the name of Lewis Macdonald falls.

The first question is, that amendment S3M-6635.1.1, in the name of Gavin Brown, which seeks to amend amendment S3M-6635.1, in the name of Jim Mather, on tourism, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Allan, Alasdair (Western Isles) (SNP)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Brown, Keith (Ochil) (SNP)  
 Brown, Robert (Glasgow) (LD)  
 Brownlee, Derek (South of Scotland) (Con)  
 Campbell, Aileen (South of Scotland) (SNP)  
 Carlaw, Jackson (West of Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)  
 Constance, Angela (Livingston) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Don, Nigel (North East Scotland) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Finnie, Ross (West of Scotland) (LD)  
 FitzPatrick, Joe (Dundee West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Goldie, Annabel (West of Scotland) (Con)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Christopher (Mid Scotland and Fife) (SNP)  
 Hepburn, Jamie (Central Scotland) (SNP)  
 Hume, Jim (South of Scotland) (LD)  
 Ingram, Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kidd, Bill (Glasgow) (SNP)  
 Lamont, John (Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)  
 MacDonald, Margo (Lothians) (Ind)  
 Marwick, Tricia (Central Fife) (SNP)  
 Mather, Jim (Argyll and Bute) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West of Scotland) (SNP)  
 McArthur, Liam (Orkney) (LD)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McKee, Ian (Lothians) (SNP)  
 McKelvie, Christina (Central Scotland) (SNP)  
 McLaughlin, Anne (Glasgow) (SNP)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMillan, Stuart (West of Scotland) (SNP)

Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 O'Donnell, Hugh (Central Scotland) (LD)  
 Paterson, Gil (West of Scotland) (SNP)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Russell, Michael (South of Scotland) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elizabeth (Mid Scotland and Fife) (Con)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Somerville, Shirley-Anne (Lothians) (SNP)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow Govan) (SNP)  
 Swinney, John (North Tayside) (SNP)  
 Thompson, Dave (Highlands and Islands) (SNP)  
 Tolson, Jim (Dunfermline West) (LD)  
 Watt, Maureen (North East Scotland) (SNP)  
 Welsh, Andrew (Angus) (SNP)  
 White, Sandra (Glasgow) (SNP)  
 Wilson, Bill (West of Scotland) (SNP)  
 Wilson, John (Central Scotland) (SNP)

#### Against

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Margaret (Glasgow Baillieston) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Foulkes, George (Lothians) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Kelly, James (Glasgow Rutherglen) (Lab)  
 Kerr, Andy (East Kilbride) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Tom (Hamilton South) (Lab)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Mulligan, Mary (Linlithgow) (Lab)  
 Murray, Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

Stewart, David (Highlands and Islands) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Whitton, David (Strathkelvin and Bearsden) (Lab)

#### Abstentions

Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)

**The Presiding Officer:** The result of the division is: For 76, Against 41, Abstentions 2.

*Amendment agreed to.*

**The Presiding Officer:** The next question is, that amendment S3M-6635.1, in the name of Jim Mather, as amended, which seeks to amend motion S3M-6635, in the name of Iain Smith, on tourism, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### For

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Allan, Alasdair (Western Isles) (SNP)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Brown, Keith (Ochil) (SNP)  
 Brownlee, Derek (South of Scotland) (Con)  
 Campbell, Aileen (South of Scotland) (SNP)  
 Carlaw, Jackson (West of Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)  
 Constance, Angela (Livingston) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Don, Nigel (North East Scotland) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 FitzPatrick, Joe (Dundee West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Goldie, Annabel (West of Scotland) (Con)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Christopher (Mid Scotland and Fife) (SNP)  
 Hepburn, Jamie (Central Scotland) (SNP)  
 Ingram, Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kidd, Bill (Glasgow) (SNP)  
 Lamont, John (Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)  
 MacDonald, Margo (Lothians) (Ind)  
 Marwick, Tricia (Central Fife) (SNP)  
 Mather, Jim (Argyll and Bute) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West of Scotland) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKee, Ian (Lothians) (SNP)  
 McKelvie, Christina (Central Scotland) (SNP)  
 McLaughlin, Anne (Glasgow) (SNP)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMillan, Stuart (West of Scotland) (SNP)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Gil (West of Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Russell, Michael (South of Scotland) (SNP)



Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Elizabeth (Mid Scotland and Fife) (Con)  
 Somerville, Shirley-Anne (Lothians) (SNP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow Govan) (SNP)  
 Swinney, John (North Tayside) (SNP)  
 Thompson, Dave (Highlands and Islands) (SNP)  
 Watt, Maureen (North East Scotland) (SNP)  
 Welsh, Andrew (Angus) (SNP)  
 White, Sandra (Glasgow) (SNP)  
 Wilson, Bill (West of Scotland) (SNP)  
 Wilson, John (Central Scotland) (SNP)

#### Against

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Margaret (Glasgow Baillieston) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Foulkes, George (Lothians) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Hume, Jim (South of Scotland) (LD)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Kelly, James (Glasgow Rutherglen) (Lab)  
 Kerr, Andy (East Kilbride) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McArthur, Liam (Orkney) (LD)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Tom (Hamilton South) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Mulligan, Mary (Linlithgow) (Lab)  
 Murray, Elaine (Dumfries) (Lab)  
 O'Donnell, Hugh (Central Scotland) (LD)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)

Tolson, Jim (Dunfermline West) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Whitton, David (Strathkelvin and Bearsden) (Lab)

**The Presiding Officer:** The result of the division is: For 61, Against 58, Abstentions 0.

*Amendment agreed to.*

**The Presiding Officer:** Amendment S3M-6635.2 is therefore pre-empted.

The next question is, that motion S3M-6635, in the name of Iain Smith, on tourism, as amended, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### For

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Allan, Alasdair (Western Isles) (SNP)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Brown, Keith (Ochil) (SNP)  
 Brownlee, Derek (South of Scotland) (Con)  
 Campbell, Aileen (South of Scotland) (SNP)  
 Carlaw, Jackson (West of Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)  
 Constance, Angela (Livingston) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Don, Nigel (North East Scotland) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 FitzPatrick, Joe (Dundee West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Goldie, Annabel (West of Scotland) (Con)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Christopher (Mid Scotland and Fife) (SNP)  
 Hepburn, Jamie (Central Scotland) (SNP)  
 Ingram, Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kidd, Bill (Glasgow) (SNP)  
 Lamont, John (Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)  
 MacDonald, Margo (Lothians) (Ind)  
 Marwick, Tricia (Central Fife) (SNP)  
 Mather, Jim (Argyll and Bute) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West of Scotland) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKee, Ian (Lothians) (SNP)  
 McKelvie, Christina (Central Scotland) (SNP)  
 McLaughlin, Anne (Glasgow) (SNP)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMillan, Stuart (West of Scotland) (SNP)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Gil (West of Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Elizabeth (Mid Scotland and Fife) (Con)

Somerville, Shirley-Anne (Lothians) (SNP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow Govan) (SNP)  
 Swinney, John (North Tayside) (SNP)  
 Thompson, Dave (Highlands and Islands) (SNP)  
 Watt, Maureen (North East Scotland) (SNP)  
 Welsh, Andrew (Angus) (SNP)  
 White, Sandra (Glasgow) (SNP)  
 Wilson, Bill (West of Scotland) (SNP)  
 Wilson, John (Central Scotland) (SNP)

### Against

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Margaret (Glasgow Baillieston) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Foulkes, George (Lothians) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Hume, Jim (South of Scotland) (LD)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Kelly, James (Glasgow Rutherglen) (Lab)  
 Kerr, Andy (East Kilbride) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McArthur, Liam (Orkney) (LD)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Tom (Hamilton South) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Mulligan, Mary (Linlithgow) (Lab)  
 Murray, Elaine (Dumfries) (Lab)  
 O'Donnell, Hugh (Central Scotland) (LD)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Tolson, Jim (Dunfermline West) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Whitton, David (Strathkelvin and Bearsden) (Lab)

**The Presiding Officer:** The result of the division is: For 61, Against 58, Abstentions 0.

### *Motion, as amended, agreed to,*

That the Parliament notes that tourism is among the largest contributors to the Scottish economy and is defined as a key sector; believes that the industry needs clear direction and support in order to achieve sustainable, long-term growth; welcomes the initiative of the industry to establish the Tourism Leadership Group as a positive step in working collaboratively toward growth and prosperity; notes that extending the small business bonus scheme will mean that half of all businesses, including many tourism-related businesses, will receive a discounted bill this year and well over a quarter of business properties will pay no rates at all and that the introduction of a transitional relief scheme would increase taxes for small and medium-sized private companies by £77 million, meaning that eight out of 10 ratepayers, including many in the tourism and hospitality industry, would be worse or no better off, which would be extremely damaging for Scotland in this period of fragile economic recovery, and welcomes the UK Government's decision not to repeal the special tax rules for furnished holiday lettings, as had been proposed by the previous administration led by Labour.

**The Presiding Officer:** The next question is, that amendment S3M-6633.1, in the name of Shona Robison, which seeks to amend motion S3M-6633, in the name of Ross Finnie, on free personal care for the elderly, be agreed to.

### *Amendment agreed to.*

**The Presiding Officer:** The next question is, that amendment S3M-6633.2, in the name of Murdo Fraser, which seeks to amend motion S3M-6633, in the name of Ross Finnie, on free personal care for the elderly, as amended, be agreed to.

### *Amendment agreed to.*

**The Presiding Officer:** The next question is, that motion S3M-6633, in the name of Ross Finnie, on free personal care for the elderly, as amended, be agreed to.

### *Motion, as amended, agreed to,*

That the Parliament believes that free personal and nursing care for the elderly has widespread support and continues to deliver real benefits for tens of thousands of Scotland's most vulnerable older people, allowing them the dignity and independence of growing old in the comfort of their homes; recognises that budget constraints and demographic change present challenges for Scotland's social care and health services, but, in order to protect the elderly, reaffirms its commitment to free personal and nursing care for the long term so that Scotland's elderly population can continue to receive the care to which it is entitled; welcomes the wide-ranging Reshaping Care for Older People programme, which is developing innovative and practical ideas for change to meet the needs of Scotland's population that are sustainable, deliverable and fair; urges the Scottish Government to continue to identify savings in administrative costs that can be reinvested in frontline services, and, in this context, calls on the Scottish Government to give serious consideration to the proposal from Lord Sutherland to merge health and social care budgets.

**The Presiding Officer:** The next question is, that amendment S3M-6636.1, in the name of John Lamont, which seeks to amend motion S3M-6636, in the name of Kenny MacAskill, on the “Independent Review of Sheriff and Jury Procedure”, be agreed to.

*Amendment agreed to.*

**The Presiding Officer:** The next question is, that amendment S3M-6636.2, in the name of Robert Brown, which seeks to amend motion S3M-6636, in the name of Kenny MacAskill, on the “Independent Review of Sheriff and Jury Procedure”, as amended, be agreed to.

*Amendment agreed to.*

**The Presiding Officer:** The next question is, that motion S3M-6636, in the name of Kenny MacAskill, on the “Independent Review of Sheriff and Jury Procedure”, as amended, be agreed to.

*Motion, as amended, agreed to.*

That the Parliament welcomes the report on the *Independent Review of Sheriff and Jury Procedure* conducted by Sheriff Principal Edward F Bowen CBE TD QC and believes that the people of Scotland deserve a modernised sheriff and jury procedure that promotes the interest of justice in an efficient way, serves the interest of victims, witnesses and jurors and is fit for purpose in the 21st century; further recognises that, with constraints on the public expenditure, it is vital to ensure that justice continues to be delivered swiftly and in a cost effective manner, and calls on the Scottish Government to work with the courts and other stakeholders to implement the reforms as a matter of urgency.

**The Presiding Officer:** The final question is, that motion S3M-6645, in the name of Bruce Crawford, on committee membership, be agreed to.

*Motion agreed to.*

That the Parliament agrees that—

Mr Frank McAveety be appointed to replace Rhona Brankin as a member of the European and External Relations Committee;

Mr Frank McAveety be appointed to replace Cathie Craigie as a member of the Public Audit Committee;

Cathie Craigie be appointed to replace Mr Frank McAveety as a member of the Public Petitions Committee.

## Deaf Awareness Week 2010

**The Deputy Presiding Officer (Trish Godman):** The final item of business is a members’ business debate on motion S3M-6139, in the name of Bill Kidd, on deaf awareness week 2010. The debate will be concluded without any question being put.

*Motion debated.*

That the Parliament welcomes Deaf Awareness Week 2010, which is to take place between 28 June and 4 July 2010 and aims to improve understanding of different types of deafness by highlighting the many different methods of communication used by deaf, deafened, deafblind and hard-of-hearing people, such as sign language and lip-reading; also welcomes the launch and presentation of an exclusive corporate DVD on behalf of the Hearing Company by Julie McElroy, which aims to raise awareness and understanding of issues surrounding deafness by drawing on Julie’s own experiences with deafness, and applauds the efforts of the UK Council on Deafness, Julie McElroy and all others involved in coordinating and contributing to the 2010 Deaf Awareness Week Campaign.

17:06

**Bill Kidd (Glasgow) (SNP):** It is an honour for me to present this members’ business debate in the lead-up to deaf awareness week. My inspiration for lodging the motion that has brought us here this evening is a young woman who is sitting in the public gallery, Julie McElroy. Julie was born with cerebral palsy and with deafness in both ears, but has worked tirelessly to prove that the human spirit can overcome any physical obstacles—and she does so with a healthy dose of good humour.

As I said, it was Julie who caused me to think more about deafness and living with a disability that everyone knows about but, unless they are directly affected by it, does not really seem to give a second thought to. It is therefore important that the theme of deaf awareness week this year is “look at me”, which of course has at its base a number of connotations. Overall, it is about the need to improve understanding of deafness by highlighting the range of communication methods that are used by deaf people and their families. That is obviously of real importance when children are involved, in order to maximise their life opportunities through the development of language skills, with sign language, lip-reading and speech development.

Hearing aids are also of great significance, of course, and Julie has benefited tremendously through her practitioner at the Hearing Company, as have countless thousands of others through high street practitioners and national health service audiology departments. Hearing aid dispensers have recently transferred to the register of the Health Professions Council, which

assures professionalism on the part of high street practitioners. It has been suggested that we should have the voucher system that is in use in Ireland and other European countries, which is similar to the system that opticians use, so that hearing impaired people can have a wider range of services for the basic provision of hearing aids than they have at present. Might the minister look at that proposal? I will forward him some details, if he likes.

On the general situation with deafness, 90 per cent of deaf children are born to hearing parents who have little or no prior experience or knowledge of deafness and will require support from medical professionals and charitable organisations such as the National Deaf Children's Society in Scotland. The NDCS estimates that there are around 3,500 deaf children in Scotland, and many more who will experience temporary deafness at pre-school or primary age caused by what is known as glue ear. The NDCS also reports that the majority of deaf children are educated in mainstream schools, where they require additional educational support, which we have discussed in the Parliament. Further, there are older people who become deaf through physical deterioration of the ear, diseases of the inner ear or exposure to regular and continued loud noise. My father suffered hearing loss through his job working in a foundry, and his was certainly not an isolated example. Generations of older people who worked in heavy industry still carry that burden, having lost their hearing while contributing to society.

Deafness is all around us, but many of us choose not to notice it until we come face to face with it—a good phrase to use in relation to lip-reading. That is something from which many of us could benefit but, as my colleague Christine Grahame has said to me, it is possibly not something to teach politicians, as they might misuse it. It is, however, important in general.

Julie is a great example of someone who refuses to be fazed by her deafness and whose communication skills are second to none. As long as people are willing to see beyond the disability, Julie is perfectly capable, as are most people with hearing impairments. As with her cerebral palsy, Julie does not let her deafness get in her way. A couple of years ago, she took part in "Beyond Boundaries" on the BBC, in which a group of 10 young people crossed the Andes and travelled through dense tropical jungle, showing that, with the right motivation and support, they are as capable as anyone else in society. She has just achieved a first-class honours degree from the University of the West of Scotland and is launching herself—if that is the right word—on the catwalk as a model for young people with disabilities who have an interest in fashion.

Julie McElroy is a young woman of whom not only her family but all of Scotland can be proud. She is aware of her deafness and wants us to be as well. As it stands, she will not let anything hold her back in life and we should see her capabilities, not just her disability.

17:11

**Cathie Craigie (Cumbernauld and Kilsyth)**

**(Lab):** I again apologise to the chamber—I had to do the same last Thursday evening—but I have to attend an awards ceremony in my constituency and must leave the chamber immediately after I finish my speech.

As the convener of the cross-party group on deafness, I am pleased to take part in the debate, and I am sorry that I am unable to stay and meet Julie McElroy, who is truly an inspiration judging by the information that Bill Kidd has passed on to the members in the chamber. I congratulate him on highlighting Julie's circumstances and commend her for the courage that she has shown. I also thank her for recruiting Bill Kidd as the newest member of the cross-party group on deafness. I do not know whether he knows about that yet, but his researcher has given me the nod that he will join the group. He will be very welcome.

With deaf awareness week ready to go once again, it is important for all of us to recognise the unfortunate lack of awareness that still exists around deafness and to do all in our power to promote greater awareness. There are no set-in-stone figures to inform us of the numbers of deaf and hard-of-hearing people in Scotland, but the estimate is approximately one in seven, or almost 760,000 people, of whom 47,000 are in North Lanarkshire alone.

Even today, someone's inclusion and access can be hindered as a result of their being deaf. Surveys for the Royal National Institute for Deaf People show that 43 per cent of people with deafness or hearing loss find it more difficult to access health services. Further evidence shows that problems relating to accessibility can lead to social exclusion, with deaf and hard-of-hearing people choosing to exclude themselves from events and social gatherings because there are no facilities in place to accommodate their language.

The issue of language is another important factor in the promotion of deaf awareness. Up to 6,000 people in Scotland use British Sign Language. As many members will know, I am in the process of readying my BSL (Scotland) bill, which will go out to consultation shortly and which I am sure all members will support wholeheartedly. BSL is the principal language of many in the deaf community but does not garner the

same recognition as English or Gaelic. As a result, deaf and hard-of-hearing people who use it are unfairly disadvantaged. That has to change. The bill would provide equality to BSL users, promote awareness and establish BSL as one of Scotland's official languages, permitting it to be taught in school. Scrutinising the bill is for another day, but in the meantime the Parliament should recognise the importance of promoting deaf awareness in Scotland. The debate has given us the opportunity to do that.

I have looked to see whether a signer is up in the public gallery. I am sorry to raise a negative note, but I do not see one—perhaps, Presiding Officer, you can correct me if one is there. One of the issues in the debate is awareness. When we have a debate in the chamber that is specifically about deaf issues, the Parliament should ensure that a signer is in place.

I thank all the deaf organisations in Scotland for their devotion and dedication in seeking equality for deaf and hard-of-hearing people. I thank Bill Kidd for securing today's debate. I hope that when we next discuss deaf issues in the chamber we will do so in a way that allows everybody to take part.

17:16

**Mary Scanlon (Highlands and Islands) (Con):** Before Cathie Craigie leaves the chamber, I will mention the excellent work that she has done on the cross-party group on deafness over many years—in all three sessions of the Parliament so far, I think. I also congratulate Bill Kidd on securing the debate. As one in seven people in Scotland is affected by some form of hearing loss, it is only right that we recognise and acknowledge the needs of the deaf community.

As the motion mentions, lip-reading is one way in which some people who are affected by hearing loss can communicate. Learning to lip-read has increasingly been shown to raise confidence among people who have difficulty in hearing, and it has made them more attractive to employers: 70 per cent of deaf people believe that they have failed to get a job because of their deafness, so extending their opportunities for communication allows many deaf people to enter into the previously uncharted territory of the workplace.

The Royal National Institute for Deaf People surveyed a group of newly diagnosed deaf people and found that, without the experience of lip-reading classes, they would not have known what services were available to them at home, including the installation of domestic loop systems and visual smoke alarms and doorbells. RNID Scotland is aware that people with deafness and hearing loss continue to struggle to understand

and manage their condition because of a lack of deaf awareness, and that they struggle to access the services that are available to them.

I was shocked to hear that there are currently only 34 lip-reading tutors in Scotland, providing 63 classes. Classes are unavailable in three health board areas and in 18 local authority areas, so I hope that the Minister for Housing and Communities will take action to ensure that lip-reading classes are offered to people who need them and that they will perhaps be included in future single outcome agreements.

The benefits of learning BSL for both deaf and hearing people are well documented. In preparation for the debate, my researcher contacted Marsie Stuart of Sign and be 'Heard', which is an Ayrshire-based business that specialises in teaching BSL to staff in workplaces across Scotland. Marsie and her colleague aim to allow people who can hear fully to communicate with people who have hearing impairments. That not only benefits users of BSL, but opens up for people opportunities that they had overlooked in the past. Two good examples of that work can be found in the major supermarkets, Morrisons and Tesco. Both reported that more deaf people had applied for work there because staff had been trained and could now sign to them. Research shows that the biggest barrier to deaf people at work is the lack of understanding by employers and other employees. The courses are a huge step forward in integrating the deaf community into all work environments.

Sign and be 'Heard' believes that BSL, which was recognised as an official language in 2003, should be taught as a second language at nursery school or primary school. Estimates show that more than 6,000 people in Scotland have BSL as their first or preferred language.

I had not known this before, but I understand that only 30 per cent of our alphabet is lip-readable. If that is accurate, surely more emphasis could and should be placed on BSL. With only one qualified sign-language interpreter for every 200 BSL users in Scotland, there is undoubtedly a severe shortage. Perhaps that explains the absence of a signer from our public gallery.

At present, deaf children are mainstreamed in Scottish schools and are, I understand, offered only 40 minutes per week with a BSL support worker. I have no doubt that provision varies throughout Scotland, but 40 minutes seems to be minimal. In the majority of cases, their peer group and teachers have no knowledge of BSL and so cannot communicate effectively with them at other times. BSL communication also benefits people with difficulties such as Down's syndrome, Asperger's syndrome and autism.

I hope that the debate will help to highlight the gap in services for people who are deaf or hard of hearing. There is no doubt that there remains a huge amount that can be done to improve the future of all deaf people in society through education.

17:21

**Christine Grahame (South of Scotland)**

**(SNP):** I congratulate Bill Kidd and thank the National Deaf Children's Society for its helpful briefing—in particular, for the flyer with the finger-spelling alphabet, as well as the dos and don'ts to assist lip-reading. I taught myself the finger-spelling alphabet many years ago but completely forgot the sign for Z—not that one uses it much—and shall pin the flyer on my office wall.

Last Tuesday, with the Royal National Institute for Deaf People, I hosted a lip-reading learning session for MSPs. I hope to repeat that later in the year because, for the MSPs who made it to the session and the members of the Parliament staff who attended, it was a steep learning curve.

Lesley Stewart, who is the RNID Scotland hear to help project co-ordinator in the Borders—she is always entertaining and informed—became deaf as an adult. She was accompanied at the session by Molly, her hearing dog who, although small, is a right wee scene stealer and always makes her presence felt. Lesley told us how her husband would put the light off for sleep, keep talking—she could tell he was talking because she could feel his face vibrate—and then complain when she did not answer. She also told us how, often, if they were at a speaking event and people did not face her directly or covered their mouths, she would have to ask him what was being said, only to be told, “I’ll tell you later.” However, she got her own back at a conference for the deaf: because communication was by signing and lip-reading, he had to ask her what was being said, so she signed to him, “I’ll tell you later.”

The don'ts to which I referred were addressed by Helen Shannon and Alison Pendrowski, who are lip-reading tutors. We pupils were presented with hand mirrors to demonstrate to us how certain sounds look the same on the lips, such as M and B, which are indistinguishable. F and V are also indistinguishable and K and D have the same mouth formation. That illustrates what Mary Scanlon said about only 30 per cent of the alphabet being lip-readable

We then had to try to follow a joke by lip-reading so that we could learn how important context is to working out what is being said, with the 30 per cent of sounds that one can recognise. It was a joke about the First Minister visiting a ward, by the way. I will tell it to members later. We also learned

that some people lip-read successfully face on and some from the side, so the lip-reading tutors said the joke three times so that we could see which way we could read their lips. I was hopeless. Gavin Brown MSP, the Tory colleague in the class, was not too bad—he was my partner in crime at the session. One of the Parliament staff who said that she had never done it before was brilliant. As I said, I was complete rubbish. Contrary to what Bill Kidd said, I put it down to being a politician. It is not so much “Read my lips” but “Watch my eyes and body language, because I speak with forked tongue.”

It was exhausting. That is another thing that I see in the dos and don'ts. It is tiring to concentrate on lip-reading, so it gave us a small appreciation of the effort that goes into it.

I will finish with a don't that should be a motto for politicians. I direct this not just at Mary Scanlon, but at all members of the Health and Sport Committee, which I chair. We were told, “Don't take forever to get to the point. Avoid rambling.” I hope that all members of the Health and Sport Committee are listening. I am going to learn how to sign that motto in BSL.

17:25

**Hugh O'Donnell (Central Scotland) (LD):** I might have reservations about whether members of our profession should have the ability to lip-read—it would have at least the potential to present some interesting scenarios—but, more seriously, I congratulate Bill Kidd on securing a debate on the motion. I also thank all the organisations that have contributed to the useful briefings that we have received. I notice that representatives from those organisations are in the public gallery listening to the debate. Cathie Craigie's point about the need for a signer was well made, so I hope that those responsible for such things within the Parliament will pay heed to it.

Fundamentally, access for, and awareness of, those who suffer hearing loss or deafness are equalities issues in every sense of that term. Without awareness, we exclude from the things that many of us take for granted a fairly substantial proportion of our population. It is likely that, of the 129 MSPs, as we all move to old age—

**Christine Grahame:** Don't look at me.

**Hugh O'Donnell:** It should be said that we are all travelling towards old age at the same speed.

As we move towards age, many of us will find that, when our relatives come into our houses, they will ask, “Why is your television volume at 105?” We might reply, “Oh, they speak a lot softer than they used to do when I was younger.” That is

often the reaction, even though we can see the ornaments bounce across the top of the television. We need to be aware that hearing loss might at some stage have an impact on us.

We also need to be aware of the simple things that can have an impact. For example, when we are dealing with the bank, if the clerk's head is down or looking at a screen, that might have an impact on our ability to communicate.

**Christine Grahame:** I advise the member that his moustache and beard can present a difficulty for those trying to lip-read, so he might want to be clean-shaven.

**Hugh O'Donnell:** That is a very good point. I grew this beard on the basis that it might help to develop what is lacking on the top of my head, but I am afraid that it did not work.

Returning to the serious issue at hand, we are dealing very much with an equalities and access issue.

Other members have spoken much more knowledgeably than I could about BSL, but I want to make a particular plea about another language, which is called Makaton. Makaton is a simplified version of sign language that can be used by people with learning disabilities. Makaton widens access for those with learning disabilities, such as a motor impairment that prevents them from making the complicated signs that can be required in BSL or a lack of intellectual capability or a lack of ability to retain the full range of signs that exist in BSL. Makaton is a much simplified version of BSL. We should bear in mind the point that our learning disability community is often excluded generally from the world. Therefore, I put in a plea for wider availability and awareness of Makaton to allow those in the disability community to have the same rights and access that we take for granted, in addition to those that should be made available to those who use BSL or lip-reading.

17:29

**Nigel Don (North East Scotland) (SNP):** I, too, thank Bill Kidd for bringing before us this timely motion. I also acknowledge the example of Julie McElroy. It takes individuals to get us to consider things in this world, and Julie McElroy is an inspiration to us all.

I also commiserate with the minister because what tonight's debate has done is produce an extended wish list of things that the Government needs to worry about, which I am going to add to. We need to be slightly careful not to ask for too much—particularly in these straitened times—but the point that all members have made is that we are talking about relatively small stuff. We are not looking for megabucks but, as the minister well

knows, the deaf community needs some help. Half a dozen more translators would make a significant difference and would not cost us megabucks.

I want to pick up on some references that other members have made. First, the deaf community is extremely varied. The document "The Long and Winding Road: A Roadmap to British Sign Language & Linguistic Access in Scotland", which the minister will be well aware of, points out that the deaf community includes people who become hard of hearing in later life, those who acquire profound deafness as adults, those who were born profoundly deaf, those who use BSL as their first language and, of course, those sad folk who are deafblind. Each of those groups has very different requirements, but each has a significant number of members.

Lip-reading has already been mentioned, so I do not want to extend that discussion, but I was aware of the fact that beards and moustaches are a significant problem for lip-readers, because Christine Grahame and I discussed the subject elsewhere earlier in the year. In my case, the purpose of the beard and moustache is not to make up for hair that is missing from the top of my head—mercifully, that does not seem to be going. It simply reflects the fact that, as a very young man, I decided that I was not prepared to spend as many hours as I would have to shaving, were I to shave.

I turn to some of the issues that are raised in "The Long and Winding Road", which identified a significant number of gaps in provision only last year. In general, there is simply not enough public funding to allow the profoundly deaf or deafblind to go to rehabilitation courses or to allow people who become deaf in adult life to attend lip-reading and communication classes. There is not enough money for training people to be interpreters and translators, and money is not routinely available for sign language courses for people who become deaf or the parents of deaf children. I repeat that we are not talking about megabucks, but money is an issue.

Another issue that I want to bring to the minister's attention, which has already emerged in Aberdeen, is to do with the change in social work. Aberdeen and North East Deaf Society was an organisation that provided social work to the deaf community in the Aberdeen, Aberdeenshire and Moray areas. I do not want to go too far into the background, but for reasons that I am not prepared to dig up, it ceased to trade and the councils had to find other ways of dealing with that social work responsibility. They have done so, and I have no doubt that they will meet their statutory responsibilities.

However, one of the upshots of the society ceasing to trade was that its building and facilities

became unavailable. The significant point was made to me that, for members of the deaf community—we are talking about thousands of people—the use of the building was more important than the social work that was provided there, because it gave them a space in which they could communicate with each other and be together. Although the provision of those social work services was a statutory responsibility that the council took over, it had no duty to provide premises where the deaf community could meet. That issue will not go away; indeed, it may recur as stringent times mean that more such services receive less funding.

We are not asking for megabucks; we are simply adding to the understanding of the minister and the Government of the disparate communities that involve folk who are deaf, who need our help. We understand that, and we bring it to the Government's attention.

17:33

**The Minister for Housing and Communities (Alex Neil):** I join others in congratulating Bill Kidd on bringing such an important subject to the Parliament's attention. I pay tribute to Julie McElroy, whom I congratulate on the DVD that she made on behalf of the Hearing Company and on featuring in this week's *Big Issue* supplement on independent living, about which I will say more later.

We welcome deaf awareness week, which we think is a much-needed event in raising awareness among the broader community of the challenges that people who are hard of hearing, deaf or deafblind face, and what we need to do about those issues. I also acknowledge the many organisations in Scotland that help to raise awareness of the different types of deafness and which promote understanding of different communication methods.

Since 2000 and under successive Administrations, the Scottish Government equality unit has chaired the British Sign Language and linguistic access working group, working to improve linguistic access for people who are born deaf, who acquire a hearing loss or who are deafblind. The group produced a road map for linguistic access, which the Scottish Government published in 2009. We also provide funding to the Scottish Council on Deafness to increase our engagement with deaf people.

Our additional work involves quite a commitment of resources, although I agree that more needs to be done. In providing a funding package to support different forms of communication for deaf people, we recognise the importance of people with the right training and

skills in communication, such as BSL interpreters. Over a three-year period that will end next year, we will have provided £1.5 million to support the building bridges project, which includes a new work-based route for training BSL to English interpreters and work on training the trainers, which is designed to increase the number of deaf tutors who can teach BSL at advanced levels.

Different forms of communication suit different deaf people; for example, those who have acquired hearing loss are unlikely to use BSL, although they may learn to lip-read. We are currently looking at the place of lip-reading within a rehabilitation framework through the Scottish Government's audiology services advisory group. We also believe that new technology has a major role to play in improved communication for deaf people.

**Christine Grahame:** I want simply to draw to the minister's attention the fact that, at the lip-reading learning class last week, it was brought to my attention that there has been a reduction in lip-reading tutors. I hope that the Government will consider that as part of what it is doing. We need more, not fewer.

**Alex Neil:** I am certainly happy to look at that issue—of that there is no doubt.

In terms of new technology, we are funding a pilot of online interpreting, which involves an organisation that is supported by Social Enterprise, and we have three separate pilots within the national health service of different models and providers of online interpreting.

We are also keen to include deaf people in our wider work to promote equality and inclusion for disabled people. We are committed to promoting equality and inclusion for all disabled people, including those with hearing loss. While we acknowledge that deaf BSL users are proud of their linguistic and cultural identity, we recognise that they, too, are covered by disability legislation. Because of that and our commitment to the issue, we have been working across the Government to promote equality and inclusion for disabled and deaf people. We have implemented the disability equality duty and responded to the United Nations Convention on the Rights of Persons with Disabilities, which includes specific references to the human rights of deaf people and sets out expectations in relation to accessible information and communication support.

We are also delivering on our commitments to promote independent living for disabled people. Independent living is based on a commitment to the principles of participation, inclusion and maximising potential. It includes deaf people, many of whom need improved communication. The Scottish Council on Deafness is also included



on the reference group that steers the work on independent living. The current work plan focuses on inclusive communication.

I want to comment specifically on BSL recognition. The Scottish Government recognises the importance of BSL to the deaf community. It is a vital means of communication for deaf people, as well as being part of their linguistic and cultural identity. As I said, we have provided significant funding to support BSL training, although the numbers issue needs to be tackled. More widely, if Bill Kidd sends me details of the voucher scheme, we will look at whether we can pursue that course of action in assisting deaf people.

In winding up, I pay tribute to everybody who has spoken in the debate. Although it has not been well attended, everybody who has spoken has highlighted the particular needs of the deaf and hard-of-hearing communities. We want to ensure that those who are deaf, hard of hearing or deafblind have exactly the same opportunities as others to maximise their potential and to participate fully in the daily life of our nation.

*Meeting closed at 17:40.*



Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

Members who wish to suggest corrections for the archive edition should mark them clearly in the report or send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP.

#### PRICES AND SUBSCRIPTION RATES

##### OFFICIAL REPORT daily editions

*Single copies: £5.00*

*Meetings of the Parliament annual subscriptions: £350.00*

##### WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

*Single copies: £3.75*

*Annual subscriptions: £150.00*

Available in e-format only. Printed Scottish Parliament documentation is published in Edinburgh by RR Donnelley and is available from:

##### Scottish Parliament

**All documents are available on the Scottish Parliament website at:**

**[www.scottish.parliament.uk](http://www.scottish.parliament.uk)**

For more information on the Parliament, or if you have an inquiry about information in languages other than English or in alternative formats (for example, Braille, large print or audio), please contact:

##### Public Information Service

The Scottish Parliament  
Edinburgh EH99 1SP

**Telephone: 0131 348 5000**

**Fòn: 0131 348 5395** (Gàidhlig)

**Textphone users** may contact us on  
**0800 092 7100.**

We also welcome calls using the Text Relay service.

**Fax: 0131 348 5601**

**E-mail: [sp.info@scottish.parliament.uk](mailto:sp.info@scottish.parliament.uk)**

We welcome written correspondence in any language.

##### Blackwell's Scottish Parliament Documentation

**Helpline** may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

##### Telephone orders and inquiries

**0131 622 8283 or**

**0131 622 8258**

##### Fax orders

**0131 557 8149**

##### E-mail orders, subscriptions and standing orders

**[business.edinburgh@blackwell.co.uk](mailto:business.edinburgh@blackwell.co.uk)**

##### Blackwell's Bookshop

**53 South Bridge  
Edinburgh EH1 1YS  
0131 622 8222**

##### Blackwell's Bookshops:

243-244 High Holborn  
London WC1 7DZ  
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

##### Accredited Agents

(see Yellow Pages)

and through other good booksellers

e-format first available  
ISBN 978-1-4061-6615-6

Revised e-format available  
ISBN 978-0-85758-051-1

Revised e-format ISBN 978-0-85758-051-1