



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

MEETING OF THE PARLIAMENT

Wednesday 22 December 2010

Session 3

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2011.

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.

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.

Wednesday 22 December 2010

CONTENTS

	Col.
TIME FOR REFLECTION	31829
“REPORT ON POST-LEGISLATIVE SCRUTINY: THE MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003”	31831
<i>Motion moved—[Margaret Mitchell].</i>	
Margaret Mitchell (Central Scotland) (Con)	31831
The Minister for Public Health and Sport (Shona Robison)	31833
Dr Richard Simpson (Mid Scotland and Fife) (Lab).....	31836
Mary Scanlon (Highlands and Islands) (Con).....	31837
Hugh O'Donnell (Central Scotland) (LD)	31839
Ian McKee (Lothians) (SNP).....	31840
Elaine Smith (Coatbridge and Chryston) (Lab)	31842
Christina McKelvie (Central Scotland) (SNP).....	31844
Ross Finnie (West of Scotland) (LD)	31846
Mary Scanlon.....	31847
Dr Simpson	31848
Shona Robison	31850
Malcolm Chisholm (Edinburgh North and Leith) (Lab)	31852
PROTECTION OF WORKERS (SCOTLAND) BILL: STAGE 1	31855
<i>Motion moved—[Hugh Henry].</i>	
Hugh Henry (Paisley South) (Lab).....	31855
Rob Gibson (Highlands and Islands) (SNP)	31857
The Cabinet Secretary for Justice (Kenny MacAskill)	31859
Richard Baker (North East Scotland) (Lab).....	31861
Gavin Brown (Lothians) (Con)	31862
Robert Brown (Glasgow) (LD)	31864
Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab).....	31865
Stuart McMillan (West of Scotland) (SNP)	31867
Marilyn Livingstone (Kirkcaldy) (Lab)	31869
Bill Butler (Glasgow Anniesland) (Lab).....	31870
Mike Pringle (Edinburgh South) (LD).....	31872
John Lamont (Roxburgh and Berwickshire) (Con)	31874
James Kelly (Glasgow Rutherglen) (Lab).....	31875
The Minister for Community Safety (Fergus Ewing).....	31877
Hugh Henry.....	31878
BUSINESS MOTIONS	31883
<i>Motions moved—[Bruce Crawford]—and agreed to.</i>	
The Minister for Parliamentary Business (Bruce Crawford)	31883
PARLIAMENTARY BUREAU MOTIONS	31885
<i>Motions moved—[Bruce Crawford].</i>	
DECISION TIME	31886
AGE-RELATED MACULAR DEGENERATION	31889
<i>Motion debated—[Robert Brown].</i>	
Robert Brown (Glasgow) (LD)	31889
Stuart McMillan (West of Scotland) (SNP)	31892
Dr Richard Simpson (Mid Scotland and Fife) (Lab).....	31893
Nanette Milne (North East Scotland) (Con).....	31895
James Kelly (Glasgow Rutherglen) (Lab).....	31896
The Minister for Public Health and Sport (Shona Robison)	31897

Scottish Parliament

Wednesday 22 December 2010

[The Presiding Officer *opened the meeting at 14:30*]

Time for Reflection

The Presiding Officer (Alex Fergusson):

Good afternoon. The first item of business this afternoon is time for reflection. Our time for reflection leader is the Rev Ross Mitchell, who is a retired Church of Scotland minister.

The Rev Ross Mitchell (Church of Scotland):

A few weeks ago, I visited Disneyland Paris in the company of my two granddaughters who are aged seven and four. Devoid of cynical thoughts, they saw its magic and they wondered at it. They knew that it was make-believe, but they accepted it so that they might enjoy the ambience. The smiles on their faces told me that the trip was fulfilling their expectations, even if, at times, I thought that I was experiencing commerce on a grand scale.

However, I give credit where it is due: the Walt Disney Company is masterful at making thoughts turn into realities, even if the realities seem somewhat ethereal and ephemeral. The founding father of the whole enterprise famously said:

“If you can dream it, you can do it.”

The imagination of the child is made visible reality for a few hours. The princesses are no longer characters in a storybook or an animated film; they are there before their very eyes.

Perhaps it is not a huge step from there to claim that this season of the year for Christians such as me is about making thoughts into realities—that is, indeed, the story of the nativity writ large. We believe that the thought at the heart of God for his earthly children to be restored to him took on human form in the person of Jesus of Nazareth. He became the physical reality of the divine plan that we call the salvation story. It is not too crude to say that, for many, it is still sheer magic. However, the magic of this season still has a grounded dimension. Bethlehem, shepherds and travellers from the east are real enough.

Permit me to say that you are not magicians. You are, however, a community of transformation—you make thoughts into realities. For some constituents, you may well be sheer magic; for others, you may not be quite so adored. What is not in dispute is the fact that you take thoughts and you make them become realities. A host of people across our nation have entrusted that noble challenge to you.

Albert Einstein once said:

“I want to know God’s thoughts—the rest are mere details.”

Supremely, God’s thoughts are of love for this world, a love made manifest at Christmas. The rest—the details—can be done in the light of that.

I pray a blessing on each of you and the thoughts that you progress earnestly into realities in this place.

“Report on post-legislative scrutiny: the Mental Health (Care and Treatment) (Scotland) Act 2003”

The Presiding Officer (Alex Fergusson): The next item of business is a debate on motion S3M-7534, in the name of Margaret Mitchell, on the Equal Opportunities Committee’s “Report on post-legislative scrutiny: the Mental Health (Care and Treatment) (Scotland) Act 2003”.

14:34

Margaret Mitchell (Central Scotland) (Con): I am pleased to open the debate on behalf of the Equal Opportunities Committee and to put on record at the outset my thanks to all those who provided written submissions and gave oral evidence to the committee at the round-table evidence sessions on post-legislative scrutiny of the equalities principles and duties in the Mental Health (Care and Treatment) (Scotland) Act 2003. I also record my thanks to my fellow committee members and to the committee clerks for compiling the report.

As we hurtle towards the end of the third session of the Scottish Parliament, this is an opportune time to remind ourselves that, as well as scrutinising current legislation, committees play a vital role in scrutinising legislation that has already been enacted by the Parliament, examining how effectively it has been implemented and assessing whether its aims have in fact been achieved. To date, however, examples of committees undertaking post-legislative scrutiny are fairly thin on the ground. Where committees have carried it out, it has consisted largely of one-off evidence sessions and correspondence with ministers; there are few instances of committees undertaking it in depth.

However, where problems are highlighted to committees and questions emerge over the effectiveness of legislation that is in force, it makes sense to investigate them through post-legislative scrutiny of the act in question. To put today’s debate in context, I point out that the decision to scrutinise the Mental Health (Care and Treatment) (Scotland) Act 2003 was taken after the Equal Opportunities Committee identified as a key issue in its inquiry into female offenders in the criminal justice system the prevalence of mental health disorders in offenders. That inquiry revealed some startling statistics, including the fact that at least 1 to 2 per cent of the 80 per cent of women in Cornton Vale who have mental health problems ought to have been hospitalised instead of being sent to prison, and that a further 8 to 10 per cent would, in recognition of the fact that their mental

health problem was more prominent than their offending, be satisfactorily dealt with in the community, highly supported by the national health service and other agencies.

Although prison staff do their best to cope with prisoners with mental health problems, they are neither qualified nor sufficiently resourced to address the issues. To be blunt, I believe that if some women—and inevitably some male offenders—are being incarcerated when they should be hospitalised, we are witnessing in 21st century Scotland scenarios that are more in keeping with Dickensian Britain.

As a result, the committee decided that scrutiny of the 2003 act would help to establish how that appalling state of affairs—which itself raises legitimate equalities issues—had come to pass. For the avoidance of doubt, I make it clear that this post-legislative scrutiny was not a comprehensive review of the whole act but a focused study of the equalities principles and duties in the legislation.

The act’s provisions were intended to enshrine a set of 10 principles proposed by the Millan committee, including three equality-related provisions of non-discrimination, equality and respect for diversity. Significantly, a duty to encourage and observe equal opportunity requirements when discharging the act’s functions applies to public bodies, such as the Mental Welfare Commission for Scotland, local authorities and health boards, as well as to Scottish ministers and to individuals who deliver front-line services, including mental health officers, medical practitioners and nurses.

The committee heard that, despite the statement in section 259 of the 2003 act that

“Every person with a mental disorder shall have a right of access to independent advocacy”,

advocacy provision was poor for specific groups and was in effect non-existent for prisoners with mental health issues. It is worth pointing out, however, that members felt that bringing forward the transfer of responsibilities for prisoners’ health care to NHS health boards would help to address the lack of advocacy for those offenders. We would welcome further details from the minister about the timetable for that transfer and the steps that the Scottish Government is taking to ensure that it is achieved by its deadline of autumn 2011. The committee has stated that, overall, the Scottish Government must develop approaches to tackle the difficulties that groups are facing in accessing their entitlement to advocacy services. Quite simply, advocacy provision should be available to all groups, not just to those who present as crisis cases.

Sections 25 to 31 of the 2003 act cover a number of provisions related to the duty on

Scotland's local authorities to provide care and support for and to promote the wellbeing of people with mental health problems. Those sections are vital, but there was evidence from some witnesses, including the Scottish Association for Mental Health, that their implementation has been patchy across the country and that, worryingly, cuts are being made to lower-level and preventive services that promote wellbeing, social development and employability. That led to questions being raised in evidence about the monitoring of services that are provided under those sections. Consequently, the committee seeks clarification from the minister on how those sections are being monitored, especially as the committee understands that some changes are being made to the Mental Welfare Commission's functions under the Public Services Reform (Scotland) Act 2010.

The committee considered other issues, including children and young people, and the need to ensure that they are placed in accommodation that is appropriate to their mental health needs as opposed to being admitted to adult wards.

In conclusion, the Mental Welfare Commission collects qualitative and quantitative monitoring data on people who are subject to the 2003 act. One of the main issues to emerge from our post-legislative scrutiny was the existence of gaps in those monitoring data, particularly in ethnicity statistics. It is disappointing that the on-going problem of baseline equalities data was perceived to be a problem in scrutinising the act.

I move,

That the Parliament notes the conclusions and recommendations contained in the Equal Opportunities Committee's 4th Report 2010 (Session 3): *Report on post-legislative scrutiny: the Mental Health (Care and Treatment) (Scotland) Act 2003* (SP Paper 468).

14:41

The Minister for Public Health and Sport (Shona Robison): I welcome this opportunity to debate equalities issues in the context of the Mental Health (Care and Treatment) (Scotland) Act 2003, and recognise the Equal Opportunities Committee's interest in the area, which accords with the Scottish Government's commitment to a fundamental improvement in how mental health service users are treated in Scotland. This is, of course, a timely point to take stock, as the fifth anniversary of the act's coming into force was just recently.

I thank the committee very much for its fourth report of 2010, on post-legislative scrutiny of the 2003 act. I am particularly pleased that the report highlights the ground-breaking nature of the act, particularly its being based on a set of founding principles, which include requiring all those who

act under its powers to have respect for the principles of equality and diversity; non-discrimination; participation by the patient in decisions; the least restrictive option; informal care where possible; maximum benefit to the patient; reciprocity; welfare of the child; and, of course, respect for carers. Those principles are found in the very first section of the act, but they do not sit in isolation either within the act or within mental health care and treatment generally. Rather, those principles represent a fundamental attempt to improve how mental health service users are treated generally in Scotland. The very name of the act, with its deliberate reference to "Care and Treatment", also emphasises the core approach to mental health services that Scotland has embraced, whether in relation to those who are in need of compulsory treatment measures or otherwise.

Although the act is still relatively young, ministers have been pleased that it has been generally well received by service users, their carers and mental health professionals since it came into force in October 2005, and that its approach and principles have been popular. Legislative change is, of course, only one cornerstone of a modern and fit-for-purpose mental health system in Scotland, and the Government recognises that new legislation in itself does not develop services nor create new treatments for mental disorder, although the act's principles, such as reciprocity and maximum benefit, can be seen to influence them. Therefore, in addition to legislative change, other policy initiatives, such as on service development and delivery, mental health improvement and support for change, are equally important. One can see, for example, the principles of non-discrimination, participation and respect for carers reflected in the introduction of a statutory right for everybody with a mental disorder to access independent advocacy. The act places a duty on local authorities and the NHS to secure the provision of advocacy services at the local level for everybody who needs them.

The Government recognises the vital work that carers do. As members know, the new carers and young carers strategy for Scotland, which we produced jointly with the Convention of Scottish Local Authorities, was launched on 26 July. It emphasises the importance of advocacy support, especially to those who care for the most vulnerable, and identifies a suite of action points to provide information, advice and advocacy support to adult carers and to improve the quality, consistency and availability of advocacy support for children and young people.

Similarly, the principles of equality and welfare of the child—whereby the welfare of the child must be paramount—has led to the development of

specialist child and adolescent mental health services in Scotland for children and young people, and for their families and carers, who are dealing with the most serious mental health problems.

That development also extends to forensic mental health services to meet the needs of children and young people in Scotland. There are currently three dedicated young people's in-patient facilities in Scotland. The number of young persons who require secure care for mental health problems is currently too small to support a dedicated unit. However, the Government is working closely with NHS boards to ensure that, when a young person has to be admitted to an adult ward, their care is age appropriate and tailored to their specific needs.

A recurring theme of the committee's work more generally has been the lack of available baseline equalities data on which comprehensive and meaningful scrutiny of equalities impacts can be undertaken. In September 2009, the Government wrote to all the chief executives of NHS boards, asking them to make improvements in equalities data capture and monitoring, and in March 2010, an NHS action group—improving equalities data monitoring—was established. Action plans were put in place and there have already been some signs of improvement in the level and quality of information that is being recorded. I would be happy to keep the committee updated on that.

The act also makes provision for the Mental Welfare Commission to monitor the key principles of equality and non-discrimination. The Government will be considering with the commission and other stakeholders how best to address any gaps in certain types of data and the scope for capturing more data in all the equality strands. Again, I will be happy to keep the committee informed of those discussions.

In 2008, the Government commissioned an independent review of certain aspects of the act. Following that report, which was published in 2009, we went out to consultation on the package of recommendations that were made by the review group. In October 2010, we published our response to the review group's report and indicated how we intend to take forward issues in relation to advance statements, named persons and independent advocacy, among others, through changes to legislation and existing practice, where appropriate. The Government therefore remains committed to improving mental health legislation.

I look forward to hearing members' comments during the debate.

14:48

Dr Richard Simpson (Mid Scotland and Fife)

(Lab): I want to focus on the issue of children and young people, which was the focus of the Health and Sport Committee's child and adolescent mental health services inquiry—many of the concerns of the Health and Sport Committee are mirrored in the Equal Opportunities Committee's report.

We need to tackle with much more urgency the issue of improving the mental health and wellbeing of children and young people. In the late 1990s, concerns were expressed about the increasing prevalence of mental health problems in children and adolescents. Research shows that, over a period of time, there has been a significant rise in the number of 15 and 16-year-olds suffering from a variety of conditions, such as behavioural problems, attention deficit hyperactivity disorder and autism spectrum disorders. Last week, we saw that the number of Ritalin prescriptions had risen, which is another indicator of the increasing number of such problems. Another indicator was a United Nations review of children, which showed that children in the United Kingdom were doing badly in terms of health, wellbeing and happiness.

The degree to which teenagers in Scotland are stressed and unhappy has been shown by a paper on 15 and 16-year-olds in Stirling and Glasgow by Professor O'Connor of the University of Stirling, which I have quoted before and which reports that nearly 14 per cent of those children had self harmed and that a further 14 per cent had had serious and repeated thoughts of self harm. When one in three of our children is having those thoughts or undertaking those actions, we have a serious problem.

A factor that has contributed to that significant change has been the growth in drug use. Today, some 100,000 children are growing up in households where there are drug or alcohol problems. We have long recognised abuse, but neglect, particularly in the first three years, has now been identified as having a marked effect. The chief medical officer, Harry Burns, illustrated that graphically in his 2008 annual report.

The Scottish needs assessment programme review of 2003 had seven conclusions, two of which were that all four tiers of the services were "working beyond reasonable capacity", and that there was a lack of training, especially in tier 1. The review resulted in the development of the 2005 framework, which the Health and Sport Committee reported was robust and should be implemented. However, CAMHS have never been a top priority.

The specific problems identified in the Equal Opportunities Committee report include the

continued admission of children to adult wards; the fact that the 2003 act makes the parent or person with parental responsibilities the named person rather than giving the young person a choice—that will simply need to be addressed by changing the act or in regulations; the lack of tier 1 counselling services; and problems in transitioning from young persons' services to adult services.

In its 2008 report, the Mental Welfare Commission said that although it was commendable that the number of admissions of children to adult wards had reduced to 140, the target of complete elimination by 2011 would require considerable effort. It is now clear from its latest report, which shows an increase in those numbers, that that target is unreachable. I ask the minister whether the interim target of 56 beds by 2010 was reached, and perhaps she will indicate what the target and the timetable are for achieving that now. Fifty-six beds is half the number recommended by the European Union. Learning disability services also remain rudimentary.

Stuart Lennox said in evidence to the committee:

"we ... need to invest at an earlier stage and get into prevention much sooner and more constructively."—*[Official Report, Equal Opportunities Committee, 16 March 2010; c 1488.]*

This session, I have worked with an organisation called the Place2Be, which works across a number of local authorities in England and with City of Edinburgh Council, although it now has a pilot in Glasgow and a link in East Lothian. It is funded by health boards and local authorities, as well as by host schools, but most of the funding comes from the charity. The organisation provides counselling to children, who sometimes need significant and intensive work, and also provides the place2talk service, which I want to speak about before I finish.

The service, which is based in the school but is independent of it, is used by a staggering 60 per cent of pupils, who have the opportunity to discuss with a counsellor problems and problem solving. The results, which the organisation has audited, are a reduction in exclusions and an improvement in attainment. I find it impressive that not a single local authority has stopped using the service once it has been introduced. I commend to colleagues that service, which deals with the tier 1 problem identified by the committee.

14:53

Mary Scanlon (Highlands and Islands) (Con):

First, I thank the Equal Opportunities Committee for the report that we are debating on post-legislative scrutiny of the Mental Health (Care and Treatment) (Scotland) Act 2003. I also thank the

members of the McManus group, who carried out a limited review of the act.

I appreciate that not all aspects of the complex 2003 act were implemented in the year that it was passed. Nonetheless, it was right and proper for the Equal Opportunities Committee to undertake the inquiry almost eight years after the act was passed and around five years after its implementation.

My starting point for today is my speech at stage 3 of the Mental Health (Care and Treatment) (Scotland) Bill in March 2003, when we supported Shona Robison's Scottish National Party amendment to monitor continually what the bill set out to achieve and to ensure that services were provided. It is worth stating that the bill extended to 242 pages at stage 2, with a total of more than 2,000 amendments at stages 2 and 3. I thank the two committee clerks—Irene Fleming and Jennifer Smart—who did an excellent job at that time. I see Jennifer Smart sitting next to the Presiding Officer today.

At that time, I pointed out the 29 psychiatrist vacancies in Scotland and the need for an additional 28 psychiatrists and many other health professionals to implement the act fully. I do not know whether any of those health professionals were recruited, but this debate points to the need for wider post-legislative scrutiny of that complex act.

It is right, as Margaret Mitchell said, that the Equal Opportunities Committee undertook the scrutiny, as three of the principles that the Millan committee set out to underpin the legislation were non-discrimination, equality and respect for diversity.

Like the minister, I appreciate that some progress has been made, but it is disappointing to read the committee's conclusions. The report states at paragraph 26 that there is a

"lack of data monitoring ... so that the Mental Welfare Commission can make a comprehensive assessment of whether the Act delivers on its equalities duties."

Paragraph 38 states:

"The difficulties some specific groups are currently facing in accessing advocacy services suggest equality is not being achieved",

and paragraph 62 states:

"The Committee is concerned at the failure to"

reduce

"the number of admissions of children and adolescents to adult"

wards.

The committee asked why the

“use of compulsory powers in Tayside is 23% higher than the average, while their use in the Borders is 34% below it”, and at paragraph 85 it requested

“further investigation ... so that ... inequalities ... may be identified”.

On advance statements, the committee concluded at paragraph 97 that they “are not widely used”.

In my view, mental health does not enjoy anything near to equality of status across the NHS. The Equal Opportunities Committee has highlighted the failure of the 2003 act to address those issues.

The committee’s report provides a limited insight into the implementation of the act, which has certainly not met the expectations that we had as Health and Community Care Committee members when the bill was passed. A wider review is undoubtedly needed.

The increase in the known number of people with dementia highlights the need for better communication with carers to ensure that they are aware of their own rights and responsibilities. The report highlights the need for better post-legislative scrutiny, given that the Parliament is almost 12 years old and given the absence of a second chamber to scrutinise, revise and review.

14:57

Hugh O’Donnell (Central Scotland) (LD): The Parliament has been effective, and over the years comparatively efficient, at passing legislation. However, it has not, as other members have said, been quite so good at reviewing and revisiting the laws that it has passed. A space must be created in the parliamentary framework for post-legislative scrutiny.

I was pleased to be part of the committee that examined the 2003 act. I will concentrate, using the committee’s report as a vehicle, specifically on the provision of appropriate advocacy services and the independent aspect of that support.

The report poses a challenge to the mistaken belief that any organisation in the statutory or voluntary sector can provide independent advocacy to anyone to whom they provide other services. What if the person has an issue with the other services that are provided by those who propose to offer advocacy? There is the clear possibility of a conflict of interest, particularly with regard to people with mental health issues, whether they are children or adults. The opportunity for undue influence to be brought to bear by those who provide the other services is particularly sensitive, especially if the services that are provided are the subject of the patient’s concern.

Best practice seems to indicate—and certainly my own previous professional experience shows—that truly independent advocacy can be provided only by a third-party organisation, or in some instances by individuals. Services should have that sole purpose. I am concerned that the process of involving associated organisations in service provision may detract, in the case of children, from the getting it right for every child principles, which place the child at the centre of service provision.

The Scottish Independent Advocacy Alliance is the Government-funded body for independent advocacy. It has published principles and standards, codes of practice and guidance for the commissioning and evaluation of all advocacy services. It is a widely recognised, coherent set of documents, some of which have been endorsed by the minister. The SIAA titles, which independent advocates work to, are substantial documents based on experience, best practice and wide consultation.

It is a little concerning, therefore, given the Government’s response to McManus, that it appears that another set of draft documents is being prepared that is supposed to sit side by side with the current framework. That will only lead to confusion about which guidelines are being followed. It also runs contrary to the principle of the independent advocacy perspective. My understanding is that a number of third sector organisations are claiming that they can provide independent advocacy within the framework of other services that they provide. In my view, that is not acceptable. There are serious concerns in the wider advocacy community about any suggestion of that.

As other members have said, we need to consider the provision of appropriate equal access services. It is clear from the report and from soundings that I have taken throughout the community that there are some threats to that. I ask the minister to address that issue when she winds up.

The Presiding Officer: We come to the open debate. As members will have realised, speeches must be no longer than four minutes.

15:01

Ian McKee (Lothians) (SNP): I congratulate the Equal Opportunities Committee on its report. I regret that four minutes is not long enough to cover all of the important points that it raises.

The first issue that I want to consider relates to the complex interaction between those who receive mental health services and those who provide them. The report rightly comments on the lack of hard data concerning the ethnicity of

patients at the point at which they enter mental health services. Those who come from a different cultural background may have very different needs and expectations, and it is important that those are recognised and treated sensitively. If we do not know the size of that challenge, that task will be even more difficult to accomplish.

There is a further aspect to that dichotomy, which is hardly touched on when the topic is discussed, namely the causes of a mismatch of needs and expectations due to the different cultural background of those who provide services. In many health service fields, that is relatively unimportant. If someone needs a hip joint replacement or antibiotic treatment for an infection, the background of the people providing the service scarcely matters. However, mental health is inextricably bound up with culture. If there is a marked cultural or language gap between those who provide a service in that area and those who receive it, the quality of care provided will likely suffer.

The reality is that such cultural gaps can often be found in mental health services today. It is not uncommon to find a doctor or other health care worker whose standard of English is high enough to cope with everyday life in this country but is not of a standard to appreciate all the subtleties that define a mental health presentation.

In case anyone thinks that what I am saying is nothing more than a covert attack on black and ethnic minority health workers, let me say that such a cultural gap often exists between people who have spent all their lives in our country, perhaps with a different geographical, religious or—dare I say it—class background.

I am reminded of a neighbour of mine who, some years ago, was moved from the north of England to manage the branch of an Irish bank in Scotland. Hoping to please the Scots, he mounted a huge green display in his window, with a big sign trumpeting “We support the Celtic Connection”. He was genuinely bewildered that not everyone who passed by was pleased with his initiative; indeed, I believe that a brick was thrown a few days later. Similarly, care givers who, for any reason, do not share the cultural background of those in their care can often make false assumptions that inevitably impair outcome. While I do not know how to tackle that problem, I believe that it first needs to be acknowledged.

As Richard Simpson touched on earlier, there is the thorny issue of age-appropriate services for children and young people, with particular regard to in-patient facilities. That is a particular problem in the Highlands, where communities are spread far apart and there are many inhabited islands. In November 2008, Helen Eadie and I had the privilege of meeting specialist child and adolescent

mental health team workers in Lochgilphead in an evidence-taking session as part of the Health and Sport Committee’s inquiry into child and adolescent mental health services. What impressed us was not only the huge task that faced this cheerful team but the innovative ways that were needed to address mental health problems that are less of a challenge in urban communities.

I cannot speak for Helen Eadie, but I came to the conclusion following the visit that, if a short period of in-patient care is urgently required for a young person, it is not inevitably desirable for them to be admitted to a faraway specialist unit in Glasgow. Local facilities that are nearer to family and friends can provide a more appropriate service. Indeed, that often has to be the route, given that specialist units are often fully occupied.

There is more to say, but no time, Presiding Officer. I commend this excellent report to members.

15:06

Elaine Smith (Coatbridge and Chryston) (Lab): Given that the Scottish Parliament has no second chamber, it is dependent on its committee structure to scrutinise legislation before and after it passes it. As the convener said in her opening speech, there has been little by way of post-legislative scrutiny of acts of the Scottish Parliament. The need for such scrutiny is fairly self evident: legislation may not always do what it was intended to do, there may be unintended consequences or we may simply want to see the impact of the legislation.

With that in mind, the Equal Opportunities Committee undertook post-legislative scrutiny of the equalities principles of the Mental Health (Care and Treatment) (Scotland) Act 2003. The act introduced the statutory right for every person with a mental disorder to independent advocacy services, and placed duties on health boards and local authorities to ensure that such services are made available. Unfortunately, our report identifies gaps in provision alongside a need for improvement in the principles of equality and non-discrimination that underpin the act.

As other members have noted, one main issue that we identified is entitlement to advocacy services. According to witnesses, priority is given to crisis cases, which has led to gaps in advocacy provision for other entitled groups. The committee felt strongly that, as part of its reflection on the McManus review, the Scottish Government should look closely at prioritisation in order to ensure that advocacy provision is available to all groups—not only to those who present as crisis cases.

FBS Advocacy in my constituency aims to do exactly that. At the moment, it is funded by North Lanarkshire Council, but operates independently. It provides group and individual advocacy services to children and young people with disabilities and mental ill health, with the ultimate aim of enabling the children to become respected and responsible advocates for themselves. FBS Advocacy does that by working with the young people and ensuring that its advisers take fully into account their views and needs. That example could be followed throughout Scotland.

As other members have said, the McManus review raised the issue of the age appropriateness of facilities around Scotland. The 2003 act brought change in the provision of age-appropriate services for children and young people, some of which is positive. However, concern remains, particularly about the recent increase in the number of admissions of young people to adult psychiatric facilities. The increase seems predominantly to be in the category of young men aged 16 and 17.

As Dr McKee pointed out, in certain circumstances, it is better for a young person to be in an adult ward—for example, to avoid the young person's having to travel miles away from family. However, SAMH raised the concern that, when a young person is admitted to such a ward, they do not always receive age-appropriate care. The Mental Welfare Commission for Scotland estimated that around 20 per cent of young people do not get access to expert medical and nursing care in adult wards, which is concerning. Donald Lyons of the commission suggested that, if a young person is admitted to such a ward, the ward should be designated for that purpose and that there should be input from professionals who work with younger people. In its response to our report, the Government indicated that it is working closely with NHS boards on the issue. The minister also said that in her speech. She has said that she recognises the need to reduce the number of children in adult wards. I would be pleased if she would say in summing up how that work is progressing.

There is currently no secure care facility in Scotland for young people, so the Mental Welfare Commission has called for one to be established, but the minister has said that the numbers are at present too small to justify that. I am interested to know the numbers and what they might need to be before a Scottish unit was established so that young people in Scotland do not have to go down to England.

Stuart Lennox of the Association of Directors of Social Work made the point that, as with advocacy services, resources are often directed away from preventive work and towards crisis care. I would

be grateful if the minister would comment on that in summing up. Counselling for young people in schools is particularly important.

The final issue that I want to mention is services for prisoners. The committee's report on female offenders highlighted that it appears that they are not receiving the advocacy to which they are entitled. The convener raised that issue in her opening speech, and the situation may improve when their care is transferred to the NHS. Can the minister tell us when that will happen?

The report is an interesting and worthwhile piece of work that shows that more post-legislative scrutiny is required.

15:10

Christina McKelvie (Central Scotland) (SNP):

I open by supporting the comments that Elaine Smith has just made and those which Margaret Mitchell made. Post-legislative scrutiny is not only advisable to monitor legislation, but is necessary to ensure that the intention behind the legislation makes a difference to people's lives.

I, too, thank the clerks and all the others who contributed to the inquiry, especially some of the children's organisations that support young people with mental health issues, and which gave such passionate evidence.

The Mental Health (Care and Treatment) (Scotland) Bill was passed four years before I became an MSP. I must admit to arriving on the committee a bit late for the work that we are debating; my colleagues had already carefully gathered and assessed some of the evidence before I was appointed to the committee. I pay tribute to the committee members who went before me and kicked off work on the report.

However, I have some professional experience from my days with Glasgow City Council social work services, which had to implement some of the Mental Health (Care and Treatment) (Scotland) Act 2003, in particular by ensuring that staff were trained to understand what it meant. The committee's thorough examination of the equalities implications of the 2003 act was a sufficient grounding to enable me to grab hold of the issue and to begin to understand it.

The report identified some areas of concern, which should be addressed by the Scottish Government, and it identifies both weaknesses and strengths in the operation of the legislation. I hope to hear from the minister a commitment to address those issues and, perhaps, some indication of what she thinks the first steps should be.

As Margaret Mitchell does, I have concerns about the welfare of female prisoners in Cornton

Vale. On many occasions, I have heard the Cabinet Secretary for Justice talk about the need to take people who have mental health disorders out of the criminal justice system and to get them into treatment, where they can be helped. I understand that those prisoners represent a substantial chunk of the prison population.

One of the committee's previous reports on female prisoners, which was a fantastic piece of work, helped to lay out some of the landscape for us. However, as Elaine Smith said, the report that we are debating today makes clear the problems that female prisoners have in getting access to services that they need, including independent advocacy services. I know that the Scottish Government has already made moves to address the issue—as the report notes—but I hope that the minister will be able to expand a little on what is planned. I am happy to wait for her to write to me, if that would be easier than responding during today's debate, as I know that the issue has come out of left field.

If I understand correctly what the Cabinet Secretary for Justice has said in the past, many of Scotland's prisoners—male and female—have mental health problems and should be in treatment, not in prison. That is my opinion and, I think, his opinion: he has said it on the record. If we can find ways of treating people more humanely, of acting to help them instead of incarcerating them, and of looking for solutions to their problems instead of shoving them aside to cure one of our problems, perhaps we will build a better society with fewer damaged people and more people who can find a way of making a positive contribution to society.

I welcome the evidence that we received from organisations, especially on issues related to children and young people, and the report's recommendations. I welcome in particular paragraphs 62 to 66, on age-appropriate services for young people. There is a clear understanding that early intervention is the key to effective support and recovery for such young people. I seek specific support for under-16s, which is especially pertinent in ensuring that recovery can take place. Of course, it will not be easy to provide that. It is not easy to choose between doing what is right and doing what is easy, but we should always do what is right, in this respect.

I look forward to working with SNP ministers—I am always an optimist—on addressing the issues over the next four and half years. Scotland has started moving in the right direction. The committee did a great job of scrutinising the legislation, but we still have some distance to travel and should get on with doing that.

15:14

Ross Finnie (West of Scotland) (LD): This has been a short and sharp debate. There are some important principles that Liberal Democrats wish to emphasise as we draw the debate to a conclusion. First, I share with all members who have spoken an appreciation of the importance of a Parliament such as ours engaging in post-legislative scrutiny. I do not apologise at all for our not having a second chamber, which I do not think is always justified. The principles on which we were founded are solid. However, that does not relieve us of the obligation both to take care in the passage of our legislation and to engage actively in scrutinising that legislation once it has been passed.

There is no doubt that the Equal Opportunities Committee's report has provided a very useful pointer. No member of the Parliament can be other than impressed by the work that the committee carried out. The Parliament is concerned—but without being critical of anyone other than the Parliament itself—that legislation that it passed only five or so years ago can cause a committee, in considering the narrow and crucial issue of equalities, to use language such as:

"The Committee is extremely concerned ... about the gaps in advocacy provision."

The report goes on:

"The Committee is concerned at the failure to reach the target for reducing the number of admissions of children and adolescents to adult hospital beds."

It also notes that

"The Committee is deeply concerned about the lack of advocacy provision for prisoners",

which was mentioned in the previous speech.

Those are genuine major concerns that have been unearthed by the committee, and they point to difficulties in the operation of an act that is only about five years old. Parliament should use the committee's report as a wake-up call. We continue to be concerned—it must be of concern to parliamentarians in general—about the way in which mental health provision does not seem to be becoming embedded in our system, as other services have, which Mary Scanlon consistently and properly refers to.

It should also be of concern that there are aspects of our legislation that are not up to standard, particularly in relation to equalities. That begs the question whether the 2003 act as a whole is not worthy of broader consideration and review, taking into account the wider aspects of its provisions.

There has been remarkable uniformity during the debate in the approach that has been taken to the issues. There has been broad—if not unanimous—agreement about the points that the

committee has highlighted and about the need to take action. In her opening speech, the Minister for Public Health and Sport made it clear that the Government is responding positively to the findings of the report.

There remain serious questions in all our minds. We passed the 2003 act specifically to highlight issues relating to the provision of services for mental health, and we did so because we recognised that mental health services were not receiving adequate provision. How, in that case, can it be that five years later every single speech this afternoon has indicated that there are aspects of delivery of services for people with mental health problems that are not of the standard that we would expect to be provided in other spheres of activity? It will not be possible to answer that question in this debate, but we would support the minister in any measures that she takes to improve the way in which those services are provided and to ensure that, across society as a whole, people with mental health problems do not continue to be treated as second-class citizens.

15:19

Mary Scanlon: I point out to Ross Finnie that I was not advocating a second chamber, but noting that post-legislative scrutiny is even more critical in the absence of such a chamber—as, I am sure, he understands.

The debate could have been much longer than an hour and 15 minutes, given the Equal Opportunities Committee's excellent work. Issues that have been raised in the debate have not been given the time that they require.

I record my appreciation of the excellent work of Advocacy Highland under the stewardship of Sheilis Mackay. I remind members that advocacy does not involve just one visit or meeting. As Hugh O'Donnell said, many people need regular advocacy support if they are to be able to live independently in the community and to cope with the pressures of daily life. I read about the millions of pounds that have been given to local government for advocacy. How can we be sure that the resources that are allocated are used for the intended purpose? The single outcome agreements and the historic concordat, which promised much, are not clear on specific aspects of spending.

On children's services, I take the point that Donny Lyons, from the Mental Welfare Commission, made when he said that it can be better for a young person in, for example, Inverness to be briefly admitted to an adult ward to be stabilised. Ian McKee also made that point. However, there is a need for community-based children's services and for on-going support that is

tailored to the needs of the child. That is essential in every health board. The patchiness of provision for children and young people highlights inequalities, as the Health and Sport Committee noted in its report last year on child and adolescent mental health and wellbeing, which Richard Simpson mentioned. The Government's target to halve the number of child and adolescent admissions to adult wards meant that the number of such admissions should have been reduced to 93 in 2009 but, as the Equal Opportunities Committee's report says, the figure for 2009 was 149.

The 2003 act is highly regarded internationally, but what matters is not the words of the act, or even the intentions that are set out in the policy memorandum, explanatory notes and statutory instruments, but service users' experiences and the outcomes and benefits that the legislation brings, as Christina McKelvie said. Mental health tribunals were introduced so that decisions could be made in settings that are more informal than sheriff courts, in cases in which compulsory mental health care might be needed. It is most concerning that the Equal Opportunities Committee noted that more than 50 per cent of tribunals result in adjournments and multiple hearings. The system appears to be highly bureaucratic and labour intensive. Under the 2003 act, tribunals have the power to restrict an individual's personal freedom, so administrative inefficiencies in the system should be urgently addressed, particularly given that the annual cost is estimated to be £12 million.

Margaret Mitchell and other members talked about the needs of female prisoners. It is not just about the needs of females when they are in prison: if their mental health care needs were addressed in the community, they might not end up in prison. That also applies to males.

Richard Simpson talked about children's services. There is no doubt that the reduction in health visitors who support children in their families is not helpful.

15:23

Dr Simpson: Ross Finnie's summary was excellent and covered most of the points. I could almost sit down.

The Scottish Parliament can be proud that the Millan committee and the principles that it established led to the 2003 act. I have been a psychiatrist—I am sorry; I should have declared an interest as a fellow of the Royal College of Psychiatrists. We set up a framework, around 1997, and we passed in Scotland the first act on mental health that was our act rather than a tartanised version of an English act. It took the

English some five years to wrestle with producing legislation that is largely regarded by psychiatrists and users as being substantially inferior to the Scottish legislation. Therefore, when we beat ourselves up about the 2003 act—which we are right to do—we should also recognise that it is extremely good. It is the mental health framework that has not made the progress that we want. The Equal Opportunities Committee has served us well in considering whether the 2003 act is working.

In 1987, half a dozen women offenders had drug problems but, since then, the proportion has increased to 100 per cent of women offenders testing positive for drugs. That point was reached in July 2004, so there is a massive drugs problem. As the then Deputy Minister for Justice, I introduced the time out centre, which took 500 women out of short-term sentences to treat drug problems, which is exactly what Mary Scanlon advocated. We need to consider that carefully. According to Dobash and Dobash, 70 per cent of the women on short-term sentences who were admitted to that programme had been abused—they had suffered either domestic violence, neglect or sexual abuse. There is a major problem to overcome if we are to address the growing number of offenders who are inappropriately admitted and not treated.

Christina McKelvie referred to the independent advocacy service. That is important for prisoners and it needs to be addressed fairly quickly. In talking about advocacy, Elaine Smith mentioned the priority of ensuring that all groups are covered, which is correct. Hugh O'Donnell rightly stressed the need for independence in the advocacy service: if it is too closely connected to the other services, it does not work.

The duplication of the documents that we are going to get is an important issue with which, I hope, the minister will deal.

The minister dealt with advance statements. They have not been used as widely as one would have liked and I hope that their use will increase.

There has been some discussion about local authorities' preventive services. I talked about Place2Be and other services. They must not be cut because cutting them would simply put more pressure on the tier 3 and tier 4 CAMHS, which cannot cope.

Learning disability was not widely covered in the debate, but there is a major problem in that area. A substantial number of people with a learning disability also suffer from epilepsy and significant mental health problems, but the mental health and forensic services for them are sometimes rudimentary.

Many speakers covered children and young people extensively. Elaine Smith, Ian McKee and

Mary Scanlon referred to the continued problem of admissions to adult units, which is now growing again. We got a balanced debate on that. Localism is important, but so is whether, even if a child or young person is admitted to an adult unit, they are treated by the appropriate service. That—not the adult ward, but the treatment—is the fundamental point and the committee rightly emphasised that.

The monitoring of ethnicity is important because there are different patterns of psychiatric illness, which needs to be addressed. As Ian McKee said, it is important for the provider, as well as others.

We probably need a further, wider review of the act. Ross Finnie got it right.

15:27

Shona Robison: I welcome the speeches that were made during the debate, which was important and interesting. Members across the parties showed their knowledge of, and commitment to, equality in mental health. Many mentioned the need to capture more detailed information to monitor how effectively the Mental Health (Care and Treatment) (Scotland) Act 2003 lives up to its principles of equality and non-discrimination.

The reduction of health inequalities is a key priority for the Government. Inequalities that relate to deprivation are well known, but there are also important health inequalities that relate to ethnicity and other aspects of diversity within the Scottish population.

The Government's view is that we need to identify ways to collect, store, share and report on equalities data in order that we can do two things: first, we need to monitor and better understand the differences between equality groups' access to, and use of, services; secondly, we need to profile and capture more detailed information on the individual patient, with the aim of understanding and being able to respond to their specific needs. As I mentioned in my opening speech, work has already begun on improving data capture across health services. We have also included an objective in the health care quality strategy that commits us to developing a programme of action to ensure that, by the summer of next year, people's equality needs are gathered, shared and responded to across health services.

In the time that I have left, I will respond to some of the points that were made in the debate. I start with bed numbers. A number of members mentioned the number of under-18s who have been admitted to adult wards. Members quite rightly referred to the figure of 149 such admissions, which was an increase from the previous figure of 142. However, we need to put

that in context, because it is likely to have resulted in part from the transitional arrangements that accompanied the closure of the in-patient facility for young people at Gartnavel royal hospital and the opening of the new in-patient facility at Skye house.

A number of members—in particular, Richard Simpson—raised the issue of children's beds. Skye house in Glasgow has 24 beds, which represents an increase from 16. There are currently 12 beds in Edinburgh and six in Dundee. The total so far is, therefore, 42 beds. We are also working closely with boards in the north and the south-east of Scotland in relation to their needs for children's beds. I am happy to keep the Parliament informed on progress on that.

One issue in getting the right number of beds is the need to strike the right balance between in-patient beds and investment in community services. I point out that we have made an additional £5.5 million available next year for investment in community services. We acknowledge that some people will require in-patient beds, but prevention and early intervention was a theme in the speeches by members throughout the chamber this afternoon, and we hope that investment in community services will, in some cases, prevent the need for admission to in-patient beds.

Members will also be aware of the important additional funding to support CAMHS, with £2 million of new money each year to accelerate the development of specialist services. Importantly, there is also funding for training the workforce, with £6.5 million of new money over three years to ensure that we have enough specialist psychology staff, including support for additional training places and posts. That is an important investment.

The issue of independent advocacy came to the fore in a number of members' speeches. The 2003 act is clear in its definition of independent advocacy and the legislation is, of course, always paramount. I return to Hugh O'Donnell's point: local authorities and health boards have a statutory duty to secure the availability of independent advocacy services. I understand the point that he made, but the legislation is clear about the expectations around that. Nevertheless, we need to ensure that we keep a watching brief on the matter, as we do not want any confusion to arise. I will certainly have a look at that.

Elaine Smith asked a number of detailed questions. I do not have all the information in front of me that would enable me to respond to her questions in detail, and I am also over my time, so I will write to her. Similarly, Christina McKelvie raised a number of important issues about prisoners, so I will also write to her.

I end with a point about the timescale. I confirm that we are still on schedule for the transfer of the service from prisons to the health service to take place in autumn 2011.

The Deputy Presiding Officer (Trish Godman): I call Malcolm Chisholm to wind up on behalf of the Equal Opportunities Committee.

15:33

Malcolm Chisholm (Edinburgh North and Leith) (Lab): This has been an important debate because post-legislative scrutiny is all too rare in the Scottish Parliament and the equalities dimension of legislation is always worthy of our attention. I am particularly pleased that the Equal Opportunities Committee decided to examine the Mental Health (Care and Treatment) (Scotland) Act 2003. As the minister said, the act was a groundbreaking piece of legislation, but we must ensure that we are living up to the principles that were its foundation. As the convener of the Equal Opportunities Committee said at the beginning of the debate, post-legislative scrutiny is important because it lets us know whether an act has done what it set out to do.

We heard in the debate that the committee's inquiry highlighted several of the same issues as the independent McManus review of the 2003 act. Since the conclusion of the committee's inquiry in June, the Scottish Government has published its response to the McManus review and has indicated how it will take forward changes to the act. In response to our report, the Scottish Government for the most part simply noted our findings. I hope that as its work in the area progresses, further detail will be provided to the committee.

The debate has covered in some detail the committee's concern about the gaps in baseline data, the availability of which is essential for comprehensive and meaningful scrutiny of whether the 2003 act is adhering to its equalities principle. The absence of ethnic monitoring in particular was highlighted in evidence to the committee. We welcome the Scottish Government's statement that, with the Mental Welfare Commission, it will consider how best to address those issues.

The committee's inquiry highlighted the importance of early intervention services, and other inquiries by the Health and Sport Committee and the Public Audit Committee sent out the same message. It may well be that the Finance Committee will say something similar in its report on its inquiry into preventive spending.

The Equal Opportunities Committee received evidence from several witnesses, including from the Association of Directors of Social Work, about

the importance of investing in preventive work, funding for which could sometimes suffer because of the focus on crisis care. I agree with and welcome what Richard Simpson said about Place2Be, which I know has benefited Forthview primary school in my constituency. I spoke to the people involved in the work there a few months ago.

Investment in early intervention services is vital, as it has the potential to prevent admissions to hospital further down the line, thereby saving money in the long term. Consideration should be given to finding more ways of strengthening such provision and ensuring that appropriate resources are directed towards preventive work as well as crisis care. The committee highlighted sections 25 to 31 of the act, which elaborate on the contribution that local government is expected to make in that regard. I re-emphasise our convener's point about the need for clarification of which body will monitor the implementation of those sections.

One aspect that the committee is particularly keen to see progress on is the provision of access to advocacy. We are keen to ensure that advocacy provision is available to all groups, and not just to people who present as crisis cases. The committee received a lot of evidence that there is a concentration on crisis cases. As the minister highlighted, the wording of the act is paramount. As I well remember, one of the major debates that took place when the matter was being considered seven years ago was about the right to independent advocacy, not just for those in crisis, but for everyone who had mental health problems.

We are pleased that the Scottish Government has looked at issues of advocacy as part of the McManus review, and we welcome its commitment to developing a national plan of action to improve advocacy support for children and young people. However, as the committee emphasised, there is also a need to address the difficulties that other groups face. One group that was highlighted is offenders with mental disorders, whose legal entitlement to advocacy services is not being met. That needs to be addressed.

In the deputy convener's absence, I stepped in at the last moment to wind up for the committee. I had intended to speak in the general debate and to highlight a particular local issue—the commissioning of advocacy services in Edinburgh. I realise that, as I am speaking on behalf of the committee, it is not appropriate that I go into that in any great detail, but I think that members will forgive me if I mention briefly that there is a live controversy in Edinburgh about whether there is a requirement to put advocacy services out to competitive tender. I refer the minister, in particular, but other members as well, to

“Independent Advocacy: A Guide for Commissioners”, which has a foreword by the minister. On page 36, it expresses the clear view that European rules do not require tendering for advocacy services. It goes on to point out several negative consequences of tendering for people who use advocacy services. I simply ask the minister whether she supports what is stated on page 36 of that document and, if she does, I ask her to draw it to the attention of the City of Edinburgh Council.

Finally, it is vital that we get right the provision of mental health services for children and young people. Although the committee received evidence that changes to provision of age-appropriate services for children and young people had been positive, the alarming figures that show an increase in admissions of children to adult wards highlight the fact that further steps still need to be taken.

Moreover, the committee believes that there is an inequality in that children who are under the age of 16 cannot appoint a named person even if they are competent to do so. The committee welcomes the Scottish Government's commitment, which was reiterated in its response to the independent McManus review, to considering how a young person might have more of a say as to their named person, while still protecting those who are most vulnerable.

In conclusion, I welcome the opportunity to debate this important issue, following on from the committee's report. We look forward to seeing how the Scottish Government will take forward our recommendations and those of the McManus review.

Protection of Workers (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S3M-7592, in the name of Hugh Henry, on the Protection of Workers (Scotland) Bill.

15:40

Hugh Henry (Paisley South) (Lab): I want to thank a number of people and organisations who helped me to bring the bill to the Scottish Parliament. I thank the Scottish Trades Union Congress, which helped to co-ordinate efforts, and those individual trade unions that lobbied and worked hard to make the bill a possibility. It was their determination to do the right thing by their members that led to the bill being introduced.

I am grateful for the work that was done by Mike Dailly of the Govan Law Centre on drafting what was previously a general set of ideas, and I am especially grateful to Frances Bell and Tracey White of the legislation unit who helped to put the final touches to the bill and make it fit for purpose.

The bill is based on the simple notion that anyone who attacks a worker who is serving the public should be charged with a specific offence and punished accordingly. The Parliament accepted the principle of such an approach when it passed the Emergency Workers (Scotland) Act 2005. The bill seeks to adopt similar measures and provide them for workers other than police officers, fire officers and health service staff.

Is there a problem that needs to be addressed? Even those who do not support the bill recognise that there is a problem. I accept that there are difficulties in the way in which statistics are gathered; we heard about that during committee evidence sessions. I hope that the minister will address that point.

It has been argued that, in 2007-08, the total number of physical assaults against public sector workers in Scotland was 32,263. According to Unison, that figure included 9,121 assaults on local government workers and represented an increase of 3,000 on the previous year's figures. The Union of Shop, Distributive and Allied Workers reported that in this year's freedom from fear survey, 11.3 per cent of Scottish shop workers had been assaulted and 40 per cent had been threatened.

The Scottish crime and justice survey found that, in 2008-09, 7 per cent of public-facing workers had experienced physical abuse during the previous 12 months. A 2010 survey by Queen Margaret University found that 8 per cent of young

workers had been physically assaulted during the previous 12 months.

We should remember that it is not just the individual who suffers as a result of an assault. The family suffers, as do the wider public when a bus or train service is withdrawn following an assault. The whole community suffers, particularly the poor and disadvantaged who have to rely on public transport. When a local shop is closed following violence, the community feels the loss. When postal services are disrupted following an assault, individuals, businesses and many others can be affected. If vital care services are withdrawn, the disabled, sick and elderly lose out.

I could spend the next hour telling stories reported by Unite, the Associated Society of Locomotive Engineers and Firemen, the Communication Workers Union, the Federation of Small Businesses, Unison and others. There is clearly a problem. Voluntary sector workers, teachers and shopkeepers are all saying that action needs to be taken. Large responsible employers are also lining up to back the bill. I thank the Co-op, Morrisons and Asda for their support and for calling on the Parliament to take action. Transport operators such as FirstGroup plc also support the bill.

All those people look to the success of the Emergency Workers (Scotland) Act 2005 to justify their view. The EWA has clearly found support. It can be said to act as a deterrent, but increasingly it is also being used, which is why more crimes are being recorded. Answers to parliamentary questions show that in 2006-07, 723 minor assaults were recorded; in 2007-08, 753 were recorded; and in 2008-09, that figure had risen to 1,150. The number of convictions from those charges is also rising.

I am told that there is no need for the legislation as penalties for assault have now caught up with what I propose. If that is the case, how can we justify the continuation of the EWA? The Cabinet Secretary for Justice has said that my bill is not required and yet he defends the EWA. Disappointingly, the Scottish Police Federation says that there is no need for the bill and yet it defends the continued availability of the EWA for police officers, even though it acknowledges that similar penalties are available under the general law.

The fact is that the EWA is symbolically important. It sends out a clear message that the Parliament will not tolerate attacks on those who provide emergency services. Why, then, should we be silent about attacks on bus drivers, train drivers, postal workers, care workers, housing officers, shop workers, teachers, voluntary sector workers and others?

The Parliament wants action to tackle alcohol abuse, and we have said that shop workers should demand proof of age under the challenge 25 scheme. Shop workers who are faced with the current legislation already experience problems, and we will be exposing shop workers to more harassment, intimidation and abuse. We have asked shop workers to enforce our alcohol policy; surely the least that we can do is to offer those shop workers the added protection that I propose.

To those who say that the current law is strong enough, let me point out that this Parliament and its predecessors have already acknowledged that the current law is not good enough for a range of people in our society. In 1988 Westminster introduced additional penalties for crimes involving incitement to racial hatred; in 2003 this Parliament required that religious prejudice be considered as an aggravated offence; and in 2009 this Parliament provided statutory aggravations for crimes motivated by malice towards an individual based on their sexual orientation, transgender identity or disability.

Let us sum up. I am told that we do not need the bill. A police officer has added protection, but not a train driver. A fireman has added protection, but not a bus driver. A doctor has added protection, but not a care worker. There will be added penalties for a crime against someone based on their race but not against a shop worker. There will be added penalties for a crime against someone based on their sexual orientation but not against a postal worker. There will be added penalties for a crime against someone based on their disability but not against a voluntary sector worker who helps those people with a disability.

Frankly, it is a cop-out to suggest that the bill is superfluous—the Parliament has already created precedents. I appeal to members to allow the bill to proceed to stage 2. I urge them not to turn their backs on workers who provide a service to the public. I ask them to vote for the Protection of Workers (Scotland) Bill.

I move,

That the Parliament agrees to the general principles of the Protection of Workers (Scotland) Bill.

15:48

Rob Gibson (Highlands and Islands) (SNP):

As deputy convener of the Economy, Energy and Tourism Committee, I am speaking on behalf of the committee because the convener, Iain Smith, cannot be here. We have recommended to the Parliament that it should not agree the general principles of the Protection of Workers (Scotland) Bill.

We acknowledge the work that Hugh Henry has done in introducing the bill and highlighting an

important issue that has prompted much-needed debate. The committee is aware that this is an important issue for public-facing workers and that a solution is required.

Thanks, of course, are due to all those who provided us with oral evidence or submitted written evidence in aiding the committee's consideration of the bill's general principles. I pay particular thanks to Diane Barr for her help as the assistant clerk who drew together our report.

The Economy, Energy and Tourism Committee is not used to dealing with what is probably a justice issue; the subject was rather different for us, but it has been enlightening to hear about the issues that affect many workers in their daily duties.

One of the key arguments that is made in favour of the bill is that it would act as a deterrent and thereby reduce the number of attacks on workers who provide a service to the public and their equipment. The majority view of the committee was that the bill is not the most appropriate method of seeking to ensure the protection of public-facing workers, because it does not extend the protection that is currently available under the common law.

The committee was unable to access data on the effectiveness of the Emergency Workers (Scotland) Act 2005, which was introduced to tackle offences of the assault, hindrance and obstruction of persons who provide emergency services; therefore, we could not determine whether the legislation had acted as a deterrent. We had to question the effectiveness of the existing legislation if there were still so many assaults on public-facing workers. If the Crown Office and Procurator Fiscal Service provided publicly the statistical data on the aggravating circumstances for common-law assault and breach of the peace prosecutions, it would be possible to draw meaningful conclusions on the effectiveness of the Emergency Workers (Scotland) Act 2005 by accessing data from both before and after its introduction.

The committee is of the firm view that action needs to be taken now to address this serious problem and that the promotion of a strong public policy message that assaults on public-facing workers will not be tolerated is an essential part of helping to bring about the required culture change in our country. In evidence, the committee heard that, although existing common law takes account of aggravating circumstances, there remains a perception among workers that assaults are not taken seriously by the Crown Office and that that perception contributes to the thousands of incidents that go unreported each year. Witnesses told the committee that one way of tackling that perception and bringing about the necessary

culture change would be the introduction and application of prosecution and sentencing guidelines.

Similar guidelines have been introduced previously by the Lord Advocate to tackle knife crime, so that cases involving someone with a previous conviction for carrying a knife are prosecuted on indictment. That gives the court that deals with the matter a much stronger sentencing possibility.

Prosecution and sentencing guidelines should be introduced as soon as possible for assaults on public-facing workers, and their introduction should be accompanied by a high-profile publicity campaign. The committee's view is that such action will send out a strong message that violent and aggressive behaviour will not be tolerated. It will also demonstrate that the courts are taking assaults on public-facing workers seriously and will, we hope, help to tackle the on-going issue of underreporting.

There are two other measures that I will talk about briefly. The Chief Fire Officers Association Scotland and the Scottish Police Federation told the committee of the effectiveness of the preventive measures that they undertake, such as engaging with communities to target antisocial behaviour. Employers are taking relevant workplace measures such as introducing closed-circuit television and their own schemes to target unacceptable behaviour. They also have a greater awareness of the issues that staff face, encouraging them to report incidents and supporting them throughout the process.

The committee believes that the issues that the bill raises are significant and should be dealt with as a matter of urgency. The measures that I have outlined will go a long way to providing protection for workers who provide a valuable service to the public.

15:53

The Cabinet Secretary for Justice (Kenny MacAskill): I thank the committee and its clerking team for its stage 1 scrutiny of Hugh Henry's bill. The bill raises a number of issues, which I will touch on during my short contribution to the debate.

No one disagrees that workers who serve the public deserve protection. What the stage 1 scrutiny has revealed, however, is that there is disagreement on how best that can be achieved. It is important to be clear about the effect that the bill would have if it were passed. It would take a bit of the existing common law of assault and replicate it as a new statutory offence. It would not extend the criminal law in any way and it would not, therefore, extend new protections at all.

We sympathise with Hugh Henry and the important issues that his bill casts light on, and we agree that raising awareness of the issues that workers face is critical. Parliamentary scrutiny helps in that regard. However, the issue cannot be addressed without tackling the underlying causes of the offences.

We have clearly said that only through rebalancing Scotland's relationship with alcohol can we hope to achieve long-term success in reducing violence in our society, including alcohol-fuelled incidents against workers. The statistics are clear. According to a 2009 survey, 50 per cent of prisoners indicated that they were under the influence of alcohol at the time they committed their offences and 45 per cent indicated that they were under the influence of drugs.

We are concerned that the bill would apply to so many types of worker that it would, in effect, risk creating confusion in the law over those who would be covered and those who would not.

We note the comments that were made during stage 1 about the lack of data on offences on workers. However, we are not persuaded that spending money on collecting more data is preferable to spending money on putting 1,000 extra officers on the streets. We make no apologies for that—putting more police on the streets is where our priorities lie. That kind of visible police presence will reassure and protect public-facing workers and, where any such worker is assaulted, will detect and bring to punishment those who have perpetrated the offence.

Any decision on guidelines on the prosecution of assaults against public-facing workers is of course a matter for the Lord Advocate. However, I am clear that the Lord Advocate—and indeed the Solicitor General, whom I met yesterday to discuss the bill—the Crown and prosecutors at every level take very seriously cases in which a public-facing worker is the victim. Every member of the public and public-facing worker should be reassured in that regard. I also point out that such matters are quite correctly regarded as an aggravation that can be considered by sheriffs under the common law. Having practised in the criminal courts, I can say that sheriffs view assaults on the workers to whom Mr Henry referred as a considerable aggravation and a matter to be dealt with in the most serious way, and we should recognise and support the commonsense approach that those in the judiciary and the Crown take to such cases.

As with prosecutions under the Emergency Workers (Scotland) Act 2005, prosecutors will often seek to prosecute cases against public-facing workers in the sheriff summary courts rather than in the justice of the peace courts to ensure that a higher sentencing limit applies. As for sentencing guidelines, we agree that, when the

sentencing council is established, it may well wish to examine whether guidelines in this area would assist the Crown and the judiciary.

This is a well-intentioned piece of legislation and we all support its intention of protecting people from individual actions. However, for the reasons that we have given—in particular, the need to tackle the root problem of alcohol abuse—we will not support it at decision time.

15:58

Richard Baker (North East Scotland) (Lab): Day in, day out in our country, workers who deal with the public face assault and intimidation, and it is time for the Parliament to act. Hugh Henry is to be congratulated not only on raising this crucial issue in Parliament, but on how he has taken it forward and the way in which he has made a powerful case based on evidence.

In my view, rejecting this change in the law will fail the workers who have in such great numbers expressed to Parliament their concerns about the kinds of behaviour and offences that they all too often have to endure. Yes, there is scope to debate the definition of a worker and, yes, we could at later stages consider the inclusion in the bill of hindrance and obstruction of workers, but by rejecting the bill now, although we acted on the evidence of the problem that faced emergency workers, we will have decided not to respond to the others who have to face very similar—indeed, sometimes exactly the same—circumstances. The Parliament will not just have ignored what those workers told us about their experiences, or the arguments that have been set out by USDAW, Unite, Unison and the other union; it will have ignored the statistical evidence. The data exist. Indeed, research from Retailers Against Crime shows a 78 per cent increase in violence against and abuse of Scottish shop workers in just the past three years, and Hugh Henry himself referred to a wide range of supporting evidence.

We have just heard about the Scottish Government's position from the cabinet secretary. That position is inconsistent. The Scottish Government not only supported the Emergency Workers (Scotland) Act 2005, but it has extended its scope so that doctors, nurses and midwives are covered whenever they are on duty. It was right to do that. In presenting the case for that measure to the Justice Committee in 2008, the Minister for Public Health pointed to the success of the 2005 act, under which there has been a 75 per cent conviction rate. As Hugh Henry said, the act is being used increasingly, and it may be helping to address the issue of underreporting of such offences. It is not just about deterrence when we look at the statistics. There have also been big issues to do with underreporting.

In many ways, the Scottish Government has made the argument for the bill, but it will not support it. It is doing that at a time when we have placed additional burdens on staff in their dealings with the public. The cabinet secretary talked about the impact of alcohol on crime. This situation makes the case itself. Quite rightly, we have tougher licensing laws and challenge 25 schemes to prevent alcohol from being sold to people who are under age but, as Hugh Henry said, that is likely to result in more aggrieved customers and more intimidating situations for staff, who already have to deal with such situations. It is not enough to say that that can simply be dealt with by the common law. Dave Watson of Unison pointed out that there are areas in the bill, particularly regarding low-level offences, that are not well covered by the common law.

Gavin Brown (Lothians) (Con): Will the member take an intervention?

Richard Baker: I do not have time. I have only 45 seconds left.

The committee report rightly highlights other work that employers and the Scottish Government should do to tackle the issue, but passing the bill is fundamental to the success of any wider strategy. On-going work on the protection of workers is being done. Rob Gibson referred to that work, and we welcome it, but it is self-evident that we are not making the progress that we want to see on the problem with the application of the current laws. If the previous Government had simply accepted the case that the existing law was adequate, we would not have passed the Emergency Workers (Scotland) Act 2005.

Let us ensure that we make the lives of workers better by passing the bill. The Government is wrong to accept the status quo. Many workers who serve the public live in fear of violence from a tiny minority who can create a lot of harm. I hope that the Government will see sense in the debate and will back Hugh Henry's excellent bill so that those workers can finally be free from fear and be properly protected in their workplaces.

16:02

Gavin Brown (Lothians) (Con): There are two fundamental questions about the bill that need to be asked and answered. First, has the exercise identified a serious issue that urgently needs to be dealt with? Secondly, will the bill solve the problem that has been identified? I answer the first question with a big yes, but answer the second in the negative.

It is clear that a serious issue has been identified. Every member who has spoken so far has referred to that. There are far too many incidents against public-facing workers. In October

this year, Unison highlighted yet again that there are more than 30,000 such incidents a year. Those incidents involve only public sector workers, not private sector workers. Therefore, it is clear that there is an issue that needs to be dealt with.

There is enormous support across the chamber for the motivation behind the bill, but not for the bill itself. Action needs to be taken. I agree with Rob Gibson that we need far stronger prosecution guidelines. There is a perception that the justice system does not treat such incidents seriously enough. That was said in written and oral evidence to the committee. I heard what the cabinet secretary said about a recent meeting with the Solicitor General in which assurances were given, but I urge the Government again to give us a commitment—possibly even in closing the debate—that that matter can be taken further. It was evident to the committee that the prosecution guidelines need to be strengthened and toughened up so that such incidents are taken seriously.

The reasons that have been put forward for the bill were to do with deterrence, punishment and the public policy message. On punishment, the difficulty is that the bill would not extend the criminal law. The common law of assault would not be extended in any way and would simply be replicated under the bill. The terms available on someone being found guilty under the bill would be identical to those that are available under the common law.

Hugh Henry: What additional punishment is available under the Emergency Workers (Scotland) Act 2005 that is not available under the common law?

Gavin Brown: Mr Henry knows that, when the 2005 act was introduced, it extended the law by quite a degree. At the time, the maximum penalty had been three months' imprisonment and the 2005 act introduced a maximum of nine months' imprisonment, which was a big extension. That act also introduced the crime of obstruction and hindrance of workers, but that is not part of the bill, which refers only to the assault of public-facing workers. The bill would not extend the punishment in any way or create anything new. It would not extend any greater protection.

Further, we have seen no evidence to suggest that the bill would be a deterrent. We had evidence from the fire service that the number of attacks on fire workers has remained static since the introduction of the 2005 act, at approximately 300 a year. That is 300 a year too many, but the number has remained the same, despite the introduction of the 2005 act. It is worth mentioning in passing that the Scottish Police Federation, an organisation for those who have to uphold the law, is against the bill for several reasons, including the

creation of a hierarchy of victims and the added bureaucracy that would be involved.

There is enormous support for the motivation behind the bill but, in practice, the bill would not make an enormous difference. However, an issue has been identified. I urge the cabinet secretary to give assurances in his closing speech that the prosecution guidelines will be strengthened.

16:07

Robert Brown (Glasgow) (LD): Hugh Henry's bill rightly raises the problem of the abuse and injury by members of the public that can be suffered by staff in shops, public services, receptions of all kinds, complaints departments and other public-facing jobs. This is the age of the complaint. Some people, for good reason or no reason, seem to think that they have the right to castigate, abuse or even assault staff who deal with the public. The message that goes out from the Scottish Parliament and from members across the chamber, whatever their views about the bill, is that there is no such right and that retail, commercial and public sector staff who deal with the public have the right to be treated with courtesy and respect and not to be abused or assaulted as they go about their jobs.

It is, however, a fairly significant leap of logic that is not justified by the facts to move from that proposition to one that says that new legislation, laws and crimes are required. If staff are physically assaulted or subjected to abuse, it is a matter for the criminal law. Whether someone suffers an assault, breach of the peace or some other crime, they are entitled to expect support from management, the police and other authorities in pursuing a criminal charge. As has been said, ample remedies are already in place—in substantive criminal law, sentencing powers and views about aggravated offences—to deal with such matters appropriately, although we might well need to firm up prosecution guidance or practice. It is noteworthy that Victim Support Scotland, among other organisations, accepted at the time of the passage of the Emergency Workers (Scotland) Bill that emergency workers required enhanced protection but believed that extending those protections to all public service workers would be "unwieldy and unnecessary".

Hugh Henry said that the bill is symbolic, but we legislate for substance and not for symbol. As the Economy, Energy and Tourism Committee noted, there are considerable problems of definition. Which workers would be covered by the bill and which would not? As the Govan Law Centre asked, what about abusive calls to call centre workers? What exactly is a service that is face to face with the public? No doubt, those problems could be overcome if the case for legislation had

been made more adequately but, to an extent, they go to the heart of the point about whether and to what extent there is a case for singling out certain workers and saying that it is particularly heinous to assault them. In my former legal office, a client once ran amok with a hypodermic syringe. It would be highly unsatisfactory if that person could have been charged under the bill for assaulting the receptionist but not for assaulting the post-room boy, the cash-room staff, the filing clerk or the typist. That illustrates some of the difficulties.

The bill also imposes tests that might, at least to a degree, make it a dead letter in practice. The assault has to be

“by reason of the worker’s employment”,

which is something else to prove beyond the normal mens rea—or guilty mind—of an assault charge. Indeed, section 1(2)(b) requires the Crown to prove in certain circumstances that the assault is motivated

“by malice towards the worker by reason of the worker’s employment.”

As any lawyer knows, proving malice is extremely difficult, so that provision would ensure that no prosecutor would think of using that part of the bill when a common-law assault charge was available.

Many of these issues were looked at during the passage of the Emergency Workers (Scotland) Bill. It was argued then that the protections in the bill should be extended to other public service workers or workers who provide a service to the public. The then Scottish Executive, of which Hugh Henry was a prominent minister—he had recently been Deputy Minister for Justice—rejected that view. Cathy Jamieson, whom I see in the chamber, was the Minister for Justice at that time. One of the reasons why the Scottish Executive was right to reject that case was that it would water down the focus and emphasis rightly placed on emergency workers who were facing, and continued to face, a number of serious and well-publicised challenges.

No worker, and no member of the public, should face abuse or danger in going about their daily work and lives. However, the remedies are not necessarily by way of creating new legislation. The bill is not the way forward and Liberal Democrats agree with the committee that it should not be supported at stage 1 today.

16:11

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): I am pleased to have this opportunity to speak in support of the Protection of Workers (Scotland) Bill and to put on record my

thanks to Hugh Henry for his hard work in introducing the bill. I also thank everyone else who worked on it.

The previous speaker mentioned that I was the Minister for Justice in the previous Executive. Like Hugh Henry, I supported and welcomed the Emergency Workers (Scotland) Bill. I also supported and welcomed the extensions to the 2005 act. I have come to the view that we need to look again specifically at workers who are dealing with the public but who are not covered by the 2005 act. That is why I support what Hugh Henry is trying to do.

Many people who deal with the public often face abuse and violence, as we have heard. I have heard from bus drivers who have been subjected to sustained attacks and who have suffered lasting physical and psychological trauma. I have heard from train crews who have been assaulted and verbally abused when dealing with passengers. I recently met shop workers from a Co-op store where there was an armed robbery.

Rightly, people will say that, in those circumstances, the employers ought to do something; they ought to ensure that there is as much security as possible and support for staff in the aftermath of incidents. Many of the workers to whom I have spoken have been satisfied with the level of support that they had. However, they feel strongly that they want the law to send a clearer message that people who are involved in violence against and abuse of public-facing workers will face tough penalties and that we should do everything that we can to deter people from such behaviour.

We have heard figures quoted by a number of speakers and I will not repeat them. However, each of those figures or statistics relates to an individual who has been a victim of a crime. We must do everything that we can to lessen the likelihood of people being in those circumstances.

One issue that has been raised in the chamber today, and which has been raised repeatedly by shop workers, is the challenge 25 requirement. Every shop worker to whom I spoke supports that initiative; they believe that it is right that proof of age is sought for alcohol purchases to prevent underage sales. However, as they pointed out, they are at the front line of enforcing that policy and expect us to give them the protection that they need if they are subjected to abuse or violence as a result.

As we have heard, it is not just the trade unions who support the bill. The retail sector, the Co-op, Scotmid, Morrisons, Asda, the Association of Convenience Stores and the Scottish Grocers Federation have all given their support to the bill. They all believe that passing the Protection of

Workers (Scotland) Bill would show that MSPs support victims of violent crime in the workplace. They also believe that it would have a deterrent effect on potential offenders, who might well think twice before committing an assault.

As we know, the Economy, Energy and Tourism Committee reported on the bill last month. I was disappointed with its recommendations. I appreciate that it had some concerns about the bill, although it seemed to accept both from the written and the oral evidence that there was strong support for the basic principle that the rights of those who provide a service to the public should be respected. We have heard that in the chamber this afternoon. That is also borne out by my experience of the public's response to a local petition by USDAW, which gathered hundreds of signatures in support of the bill in a couple of hours in East Ayrshire.

The committee's report states:

"The Committee welcomes, and shares, the commitment of the member in charge of the Bill to promote the protection of, and respect for, public facing workers and recognises that there is a need for a culture change to tackle unacceptable behaviour towards those workers",

with which I agree. I understand why the committee

"believes that the issues raised are significant and that if they are not dealt with by this Bill then Parliament should look at other ways of addressing them",

but my view on that varies slightly. I have not so far today heard anything from committee members or Government ministers about how the issues will be addressed other than through more publicity and campaigning, which USDAW and the other trade unions have been doing over the past few years.

I ask members to think clearly about the message that the bill sends out. It is all very well to hear warm words in the chamber today, but those will quickly turn to freezing cold comfort if the bill is voted down.

16:16

Stuart McMillan (West of Scotland) (SNP): I welcome the debate on the stage 1 report on Hugh Henry's member's bill. As a member of the Economy, Energy and Tourism Committee, I pay tribute to Mr Henry for introducing the bill and raising the issue in Parliament. I thank the committee members for their scrutiny of the bill, I thank everyone who provided evidence and I thank the committee clerking team for their endeavours. I am confident that the committee gave the bill a fair and thorough hearing, and we came to our conclusions and recommendations accordingly.

Every member who participates in today's debate will no doubt highlight their concerns about the protection of workers; we have heard some of those concerns already. Unquestionably, citizens in this country should be able to go about their daily lives and work in the knowledge that the law will protect them. The bill highlights the fact that existing legislation covers every citizen, but there is clearly an issue that affects public-facing workers.

We had to ask ourselves in the committee, first, whether the bill would provide further protection and effective action to reduce verbal and physical attacks on public-facing workers; and, secondly, who qualifies as a public-facing worker. On the first point, if the bill is enacted as drafted, nothing new will be introduced and no extra protection will be created. Part 2 of the bill, which deals with penalties, suggests imprisonment of up to 12 months, or a fine, or both. That currently exists in legislation. The penalty of a sentence of up to 12 months is exactly the same as in the 2005 act, as we have heard, and in the Criminal Proceedings etc (Reform) (Scotland) Act 2007. We therefore had to ask ourselves whether the bill would bring something new to the statute book.

On the second point, I was not convinced by some of the arguments that were made about who qualifies as a public-facing worker. It is clear that shop workers, bar and restaurant workers and many others, as highlighted by Hugh Henry in his speech earlier, would qualify. However, I had concerns that people who work in factories on the shop floor would not be covered, while the management would at times be covered if they were out representing the business. I found it difficult to understand how people who work in shipyards and call centres would not be covered, while the management would be covered when they were out representing those companies.

Paragraphs 65 to 71 of the report highlight the difficulty in defining who should be covered under the bill. The bill, like any other bill that comes before Parliament, would be subject to amendments, which was highlighted in the committee's evidence taking. However, if the bill was greatly extended to cover the examples that I have highlighted and other categories of worker throughout the country, it would lose the focus on what it is attempting to do.

I whole-heartedly agree that more can always be done to protect all workers in Scotland. I do not think that the bill is the answer at this time, but I encourage the Scottish Government and the Parliament to work to address that important issue. Paragraph 64 and paragraphs 83 to 86 of the report contain important recommendations, and I look forward to hearing from the Government

on its proposals to address the issues that are raised in the bill and the stage 1 report.

16:20

Marilyn Livingstone (Kirkcaldy) (Lab): As a member of the Economy, Energy and Tourism Committee, I, too, thank the clerking team and all those who gave evidence on the bill. Like three other committee members, I voted in support of the bill. I have heard concerns about the bill today and in evidence. Some of those concerns were mentioned by Stuart McMillan. Given that everyone seems to be in favour of the general principles of the bill, I would argue, as Hugh Henry did, that we should allow the bill to proceed to stage 2, which would allow us to explore the issues that have been raised. To vote against the bill at stage 1 sends out a message that will not be welcomed by those who hope that Parliament will protect them.

Violent incidents at work remain a major issue. Other members have already discussed the figures. Last year, more than 1 million shop workers were assaulted, threatened or abused in the workplace. Every incident is a traumatic event for the victim and often results in ill health. I am sure that I am not the only constituency member who has had many examples in their mailbag.

For some staff, the impact is so serious that they never work in their chosen profession again. I have had personal experience of that in a constituency case. That particularly applies to staff who perform a job in which violence is unexpected and is not a recognised risk. They are the very staff who are not adequately covered by existing criminal provisions. We have a duty to send out a message that that violent behaviour is unacceptable and that we believe in equality and parity for all workers who are public facing.

Statistics show that many violent incidents against shop workers are a result of staff asking for identification. The difficulties that shop workers face in policing age-related sales can leave them vulnerable and isolated when applying the no ID, no sale, and think 25 policies—Cathy Jamieson referred to that—to all customers, many of whom are frustrated when asked for ID. We must accept that those front-line staff are implementing the Parliament's policy.

At a freedom from fear event at the Parliament last year, I met representatives from a major supermarket in my constituency who confirmed that the sale of age-restricted products, particularly alcohol, is a frequent cause of verbal abuse, threats and violence against shop workers. That is unacceptable. Parliament must take a stand for those employees and the 80 per cent of all

Scottish workers who face the daily threat of violence by just doing their job.

The Protection of Workers (Scotland) Bill will give public-facing staff the same level of protection that is guaranteed to emergency workers who are assaulted when doing their job. If passed, the bill would make it clear that it is an offence to assault anyone in the course of their job. The measures in the bill have been welcomed by numerous organisations, many of which have been mentioned in the debate.

Along with public awareness campaigns and workplace measures, the bill, if passed, would send out a strong message to those who fail to respect public-facing workers and the valuable service that they provide, that unacceptable behaviour will not be tolerated. The bill would also make it clear that the Parliament takes violence against workers seriously and that it is taking measures to protect employees on the front line of policing age-restricted sales.

In return for the additional pressure that we have placed on shopkeepers, we must accept responsibility for ensuring their safety from violence, threats and abuse. Given the increasing pressure on shops in the run-up to Christmas, with increased sales and more people in a hurry, I fully support the progression of the Protection of Workers (Scotland) Bill to stage 2. I ask members to enter further discussion on how we can give those workers greater protection, particularly at this stressful time of year. I congratulate Hugh Henry on everything that he has done and the trade unions on supporting the bill. There is a great deal of public concern out there, and the Parliament needs to send out a message that we will support the bill at stage 1 and allow it to proceed to stage 2.

16:24

Bill Butler (Glasgow Anniesland) (Lab): I refer to my entry in the register of members' interests as a member of the Scottish Co-operative Party.

I have pleasure in supporting the motion in the name of Hugh Henry. I congratulate my Labour colleague on introducing this important bill. He is to be commended for his diligence and dedication.

The bill would create a new offence of assaulting a worker whose employment involves dealing with members of the public to any extent, but only when the worker is physically present in the same place as members of the public and when they are interacting directly with or providing a service to the public.

As Hugh Henry and other members have said, there can be little doubt that measures need to be taken to deal with the unacceptably high level of

physical assaults on public-facing workers. In a letter that I received recently from Lawrence Wason, the Scottish divisional officer of USDAW, and Mr John Hannett, USDAW's general secretary, the need for urgent action is crystal clear. The 2008-09 Scottish crime and justice survey found that, of adults in employment who spent time dealing with the general public, 7 per cent had experienced physical abuse in the previous 12 months. Of those, 29 per cent had experienced violence at least once a week. In addition, Queen Margaret University's 2010 survey of young workers found that 8 per cent had been physically assaulted in the previous 12 months and that another 8 per cent had been physically assaulted with a weapon.

Robert Brown: Will the member give way?

Bill Butler: No, thank you.

Those are disturbing and shameful statistics. The Parliament must not stand idly by while, as Mr Hannett of USDAW reveals,

"over a million shop workers"

are

"assaulted, threatened or abused while doing their job."

That is unacceptable.

Gavin Brown: Will the member take an intervention?

Bill Butler: No, thank you.

None of us who works in the Parliament either as an elected member or staff expects—and far less accepts—the routine facing of threats, abuse or physical assault as we go about our daily business. That should be the same for all public-facing workers across Scotland.

Lest anyone should think that the bill and its rational proposals are backed by only side of industry, I quote David Paterson, Asda's Scottish affairs manager:

"Asda welcomes Hugh Henry's campaign to end violence against shopworkers. Nobody should feel threatened or intimidated when they're simply doing their job including stopping underage sales."

Those sensible sentiments were echoed by Morrisons, the Scottish Grocers Federation and Scotmid Co-operative Society. Mr Malcolm Brown of Scotmid said:

"MSPs need to understand that shopworkers are on the frontline when it comes to policing age-restricted sales. As a responsible retailer, we support the Scottish Government's attempt to reduce under-age sales, however"

the Scottish Government

"must also make sure the law protects and supports our frontline colleagues."

Quite so.

Nobody is claiming that the bill is perfect. There are areas that need to be improved. As the committee noted at paragraph 35 of its report in respect of the witnesses who were looking for parity with the provisions of the 2005 act through the inclusion in the bill of provisions on hindrance and obstruction,

"the addition of hindrance and obstruction could go some way to answering the criticism made by some of the Bill that it simply criminalises that which is already criminal under the common law."

The place for any such amendment is, of course, stage 2. I urge members not to halt the progress of the bill today but to allow it to proceed so that the appropriate amendments to strengthen it can be made. As John Hannett of USDAW correctly said,

"the problem is far too important to be rejected by MSPs at the first hurdle."

I urge members on all sides of the chamber to listen to the unions, the retailers and the vast majority of the general public and to join with Labour and Co-op members in supporting the general principles of this important bill, which seeks to afford greater protection to working people. A vote against the bill would correctly be viewed as a blow against the rights of working men and women. I urge all members to support the bill at decision time.

The Deputy Presiding Officer (Alasdair Morgan): We move to wind-up speeches.

16:29

Mike Pringle (Edinburgh South) (LD): Hugh Henry introduced this member's bill in June 2010. As any member who has tried to introduce such a bill will know, a huge amount of effort and time is required. I commend Hugh Henry for all the work that he has carried out.

As we have heard, the bill proposes the creation of a specific statutory offence of assault on a worker whose employment involves dealing with members of the public. By creating a specific offence, the bill seeks to highlight the problem of assaults on a particular group of people and to provide a deterrent to those who might otherwise commit acts of violence. I accept that, as Hugh Henry and others have said, the number of assaults is on the increase. There can be no doubt that times are a-changing. Some 15 to 20 years ago, I had a retail business of 19 shops and employed more than 120 people. In the years during which I had that business, I do not remember any of my shop staff ever being assaulted. Times have certainly changed.

During the passage of the then Scottish Executive's Emergency Workers (Scotland) Bill in 2005, some argued that statutory protection should be extended to other public service

workers and/or to other workers providing a service to the public. As we all know, those proposals were rejected.

Originally, Hugh Henry consulted on a bill to introduce an offence of

“assaulting, obstructing or hindering someone who is acting in their capacity as a worker while providing a face to face service to the public.”

However, some respondents argued against including obstruction and hindrance on the grounds that that was less serious than hindering or obstructing an emergency worker and that workers had the option of withdrawing services.

I accept absolutely that individuals, wherever they are, should never feel intimidated or face abuse while they are doing their lawful job to the best of their ability. For that reason, Liberal Democrats welcome the debate to which the bill has given rise. We make it clear that more needs to be done to increase support and protection for workers who provide a public service, as at the moment abuse may be viewed by some—the number of such people may be increasing—as expected or even acceptable. That can never be the case.

As Robert Brown said, however, we are not convinced of the need to legislate on the issue. Attacks on any kind of worker are always unacceptable and I suggest that the proposed new offence adds nothing to the existing common-law offences of assault and breach of the peace that can already be brought against offenders—it does not introduce anything new. I agree with Rob Gibson, Gavin Brown and others that we need the Lord Advocate to take another look at the issue and, perhaps, to issue new sentencing guidelines for offences of this type. Perhaps the minister will say something about that when he responds to the debate.

Although we do not think that new legislation is the most appropriate method of seeking to ensure the protection of public-facing workers, we support wholly Hugh Henry’s commitment to promoting the protection of and respect for those workers. We recognise that we need to bring about a change of culture in our society to tackle such completely unacceptable behaviour.

We believe that it would be more effective to concentrate on creating a secure environment and a zero-tolerance approach, with effective and persistent prosecution of people who commit such offences. There is also scope for greater evidence sharing and partnership working, which could help to identify troublemakers and violence hotspots.

16:33

John Lamont (Roxburgh and Berwickshire)

(Con): Like other members, I welcome the opportunity to debate this important issue. I thank Hugh Henry for bringing the matter before the Parliament. He has undoubtedly worked extremely hard on the issue for many years. No one in the chamber will question his good intentions in bringing the bill before us.

It has already been said many times this afternoon, but is worth repeating, that any form of abuse of those who work with the public is unacceptable. Our principal aim should be to ensure that the law is able to deal with such behaviour as effectively as possible. We will oppose the bill tonight, but not because of any disagreement with the principles behind it. The bill highlights a serious issue, as there are far too many attacks on people who are just doing their jobs, but we are not persuaded that the bill will provide a solution to the problem and believe that it will serve only to complicate the legal framework that already exists to protect people from violence and other abuse. I will expand on those points and consider some possible alternatives.

Many people in Scotland do jobs where they potentially face threatening or abusive behaviour. Cathy Jamieson and Marilyn Livingstone both highlighted their experiences, and various members have experienced or witnessed people being given a hard time when they are just doing their job. Staff in my constituency office were recently subjected to a horrific experience involving threatening behaviour while they were trying to help a constituent. The case, however, was dealt with by the local police and the matter was brought to court under existing law.

As in so many areas of the criminal justice system, it is not that we need more law—far from it. Rather, we need to be better able to enforce the existing legislation.

The police expressed concerns to the Economy, Energy and Tourism Committee on the need to prove motivation for aggravated offences. If the bill were enacted, rather than having to prove just the basic offence, the police would need to provide additional evidence to prove motivation. According to the police, that would make it harder, rather than easier, to secure convictions.

I also agree with the view of the Law Society of Scotland, that the existing common law provides sufficient protection to workers who provide a service to the public, as it takes account of aggravating circumstances. The principle of an independent judiciary means that sheriffs and judges have the flexibility to take various factors into account when deciding a sentence. We erode that principle at our peril.

Of course there are exceptions to that. For more than a century, aggravations have existed in our law. It has been generally accepted that police officers, more than any other occupation, get into physical confrontations in the course of their job, but when we continually add various groups to the list of people who are protected by aggravations, we exclude, by definition, other members of society from such protection. I cannot see why there should be any distinction between workers in different sectors. The bill could discriminate between victims of crime on account of their job; that would be a serious mistake for the Parliament to make.

Mr Henry continues to raise an important issue that we must consider carefully. We must also consider carefully whether the bill is the best tool to achieve the outcome that we all seek. Like the Economy, Energy and Tourism Committee, I do not believe that it is. As the committee's report concludes, the Scottish Parliament and the Scottish Government should address these important issues as soon as possible,

"particularly with regards to the introduction of sentencing and prosecution guidelines and the collection of relevant and transparent data."

It has also been suggested that the Government should run a public campaign against the behaviour that the bill seeks to address, to make it clear that an attack against workers is an attack against the communities that they serve. We would support such initiatives.

16:37

James Kelly (Glasgow Rutherglen) (Lab): I welcome the opportunity to speak in support of Hugh Henry's Protection of Workers (Scotland) Bill. I pay tribute to Hugh Henry for bringing important issues to the chamber. I know that his proposals have the support of many workers throughout Scotland, as well as that of retailers.

As members have already highlighted, there is general agreement across the chamber that assaults on workers are a serious concern. I will not repeat the statistics that members have quoted from Unison and the Scottish crime and justice survey, but I was particularly interested in what Mike Pringle said, based on his experience as a retailer. That clearly underlines the fact that, over the past 20 years, assaults on shop workers and on public sector workers in general have increased. That matter is a concern to us all and it is illustrated by evidence on the ground. In Glasgow and the west of Scotland, there have been six incidents of assault on betting shop workers in recent weeks, including one in Rutherglen, in my constituency. There is general agreement across the chamber that assaults on

workers are on the increase. The issue is how we deal with that.

Hugh Henry put the case strongly for the need for legislation. He said that any worker who is subject to an attack should be protected under the law and that the attack should result in a specific prosecution. That is the objective of the bill.

Those who oppose the bill have said that the current common-law provisions are adequate. I do not agree with that point of view. It is clear from the committee's report—and it is even clear from what members said in the debate—that the common law is not serving well the workers who would be covered by the bill and that the number of convictions is not adequate.

The categories of workers who are covered by the Emergency Workers (Scotland) Act 2005 have increased, so the 2005 act has been effective. In addition, assaults on health workers, in particular, have decreased.

Gavin Brown: Will the member give way?

James Kelly: I am sorry, I do not have enough time.

The Deputy Presiding Officer: You have time, if you want to take an intervention.

James Kelly: Okay, as long as I can develop my other points.

Gavin Brown: The point about health workers was put to the committee. However, the most recent statistics from Unison, from 22 October, show that assaults on health workers are up by 1,500 in a year and assaults on other workers are increasing at a lesser rate. Health workers are being attacked more often, despite the 2005 act.

James Kelly: The member's comment shows the importance of getting proper statistics, so that we can assess the scale of problems. It is unfortunate that that point was dismissed during the cabinet secretary's speech.

The cabinet secretary talked about alcohol. The Parliament recently passed the Alcohol etc (Scotland) Act 2010, under which the challenge 25 initiative, which I support, will be extended. Parties supported the initiative, the implementation of which will put workers in intimidating situations, but the same parties are not prepared to support a bill that would give protection to those workers. It is clear that a bus driver who is assaulted should not look to the SNP for back-up. [*Interruption.*] That is what we are seeing today. A person who works in a bookmaker's should not expect the Liberal Democrats to be on their side. A person who works in an off-licence who is assaulted should not expect the Conservatives to support legislation that would protect them.

Mr Lamont said that the Conservatives support the principles of the bill, but will not support the general principles at stage 1. At stages 2 and 3 of the parliamentary legislative process, a bill can be fine-tuned so that it is fit for purpose—that is the whole point of the process. We would be able to address Robert Brown's points about definitions at the subsequent stages and it is a matter of regret that other parties are not prepared to allow the bill to proceed through those stages so that it can be fine-tuned and made fit for purpose.

The bill is worthy of support. It has the support of many workers and retailers in Scotland. It will be sad if the other parties vote it down at 5 o'clock.

16:43

The Minister for Community Safety (Fergus Ewing): I acknowledge the work of Hugh Henry, members of the Economy, Energy and Tourism Committee and all the staff who assisted them.

Every single MSP, across every political party, regards with abhorrence the crime of assault, no matter against whom it is committed. Any assault, on any human being, is wrong. Assault is criminalised. As far as I know, it has always been criminalised, since before the days of Baron Hume. I suspect that the sentences that were imposed in those days were very strong beer indeed.

James Kelly: Will the minister take an intervention?

Fergus Ewing: No. I am going to make progress.

We should be taken at face value as being entirely sincere when we say that we all want to do everything that is possible, practical and effective to help shop workers in the job that they do.

"Unfortunately, there are a minority of individuals who would wish to jeopardise the provision of these Services"—

which we take for granted—

"through verbally and physically abusing shop staff. This of course is completely unacceptable in any circumstance".

I have just read extracts from my foreword to the "Violence Reduction Handbook". Throughout Scotland, 5,500 copies have been distributed to people who are directly in the front line. One of the committee's recommendations, as Rob Gibson said, was to have a campaign and, to the extent that the handbook has been distributed, we have already had a campaign. More can be done, but it makes a good start.

The handbook offers practical advice about encouraging

"employees to report all forms of ... violence"—

there may be under reporting at the moment, as some members said. It also contains advice such as:

"Remove the motivation or incentive for violence"

and

"Create a culture of respect",

as well as practical advice, such as to "Install ... physical barriers" to protect staff in a concrete way. Such protections include secure premises, counters and locked areas for staff to provide an actual element of physical protection. The handbook also recommends the use of security video cameras, mirrors or CCTV cameras where appropriate and that workers avoid lone working.

I have just read out some extracts from the handbook but, with respect to members, it seems to me that little has been said in the debate about those practical steps that we need to take. As I have said in previous debates, at the end of the day, law is simply words on a page; it does not protect people in any physical sense. It does not protect a shop worker against someone who is out of his mind on drink or drugs and is intent on committing an assault. Such a person certainly does not stop and say, "Oh dear, there is a protection of workers act; I had better stop right now."

Every member of the Parliament most certainly regards every citizen in Scotland—shop workers, emergency workers, elderly people, children and people with a disability—as deserving of the protection of the law in so far as it provides protection. However, the bill does no more than simply replicate the law as it stands—no one has contradicted that—and I imagine that that, in part, was the reason why, when the Labour Party was in government, it declined to do what it asks the Parliament to do today.

16:47

Hugh Henry: Fergus Ewing referred to the foreword that he had written. It is encouraging to see that at least one person in Scotland has read that foreword. I hope that others will follow the minister's exhortation.

A number of points were raised, but James Kelly raised a significant one. A number of members said in their speeches that they support the general principles of the bill but simply do not agree with the specifics. James Kelly is right that if members support the general principles of the bill they should vote for it at stage 1 and allow us to sort out at stage 2 some of the issues that cause concern.

Fergus Ewing said that one of the problems is that the bill would simply replicate the law as it stands. There is an issue to do with obstruction

and hindrance, which could be addressed at stage 2. When I drafted the bill, there were arguments for not including hindrance and obstruction in the offence, and others for including them. If that matter alone is the problem, we could address it at stage 2, but where would we be if we introduced such provisions? We would be in exactly the same position as we are in with the Emergency Workers (Scotland) Act 2005.

Fergus Ewing has also just said that there is no need for additional legislation because the bill does not add to what the common law offers. However, we heard Kenny MacAskill say at committee that he supported the Emergency Workers (Scotland) Act 2005 and we have heard a number of other members say the same today, even though the act did not add to what the common law says. There is therefore an inconsistency in their argument. It would be better if people were up front and honest and just said that they do not agree.

I was disappointed to hear Mike Pringle's speech. It is only a short two or three weeks since he and I were pictured holding the bill, when he left the trade unions, the Scottish Grocers Federation and other retailers organisations with the impression that he was going to support it. Of course people are entitled to change their minds, and of course people come under pressure in their parties from their whips and party discipline, but even at this stage, I hope that he will reflect on the impression that he gave to others.

Kenny MacAskill said that the bill is far too wide and that it would protect so many people that it would simply cause confusion in the law. That point was echoed to some extent by Stuart McMillan, who said that he could not see why factory workers on the shop floor would not be covered but the managers would, or why shipyard workers would not be covered but the managers would. Perhaps he was just being disingenuous, or maybe there is genuine confusion. A bill that seeks to protect those who serve the public has to have a definition of workers who are serving the public. If shipyard or factory workers are assaulted in the course of their work but are not engaged in serving the public, of course they would not be covered. Why should they be? That is not the intention of the bill. However, if a shipyard worker was out serving the public, for example by going down to Govan and giving a public talk on what they are doing in building warships or, indeed, on why they should be building them, and in the course of doing that on behalf of his company is assaulted, then of course he would become covered by the definition. We just need to be a bit more sensible about what we are trying to do when we propose or knock down the arguments.

Bill Butler was absolutely right to say that there are areas where the bill could be improved and that there are arguments for and against. However, if that is the genuine belief of members, I repeat my view that they should not destroy the bill at this point, but let us proceed to the next stage.

Robert Brown said that if there is a problem, then the Liberal Democrats are reluctant to say that the way to deal with it is simply to jump to new laws. I ask him to forgive me if I am wrong, but I think that he voted for the Emergency Workers (Scotland) Bill, which did exactly that. I cannot see how he can logically justify voting for that bill but not for the bill that we are debating today. At least the Conservatives have had a consistent view, in not supporting this type of legislation. There is no consistency in the Liberal Democrats' position—although perhaps we should not be surprised about that.

Robert Brown: Hugh Henry will recall that the logic on which the Liberal Democrats defend their objection to the bill is exactly the same logic with which the Labour Party, which was in Government at the time, opposed the introduction of extensions to the Emergency Workers (Scotland) Bill. Is not that correct?

Hugh Henry: I recall many of the disagreements that we had. One of the problems that we had arose because of the nature of coalition. The Conservatives are now finding out the joys of working in coalition with the Liberal Democrats and just how parties are constrained. One problem that we had was that the Liberal Democrats would not allow the boat to be pushed out further, if members will allow me to continue with the shipyard analogy. Let us talk about what coalition brings. Maybe Labour and the Conservatives can mull over its joys and some of the problems that arise.

I turn to the points that Fergus Ewing made about practical action. I accept what he said about that, and I commend him for his commitment to it. Practical action has a place, but the same argument could be made on any proposed legislation. Fergus Ewing said that the law is not just words on a page. Of course that is the case: no law is just words on a page—it has significance only if it is followed up by practical action. As a minister, I supported the action that followed the passing of the Emergency Workers (Scotland) Act 2005, and I note that Fergus Ewing has committed himself to that, too, but he should not use the argument that practical action is needed as justification for opposing the bill. Practical action is always needed in the aftermath of the passing of legislation. Practical action will be needed to ensure that the Alcohol etc (Scotland) Act 2010

has any practical impact. The minister's argument is disingenuous.

I was encouraged by Kenny MacAskill's fulsome praise for the bill, but he said that even though it was well intentioned, it would not make a difference and he could not possibly support a bill that would make no difference. The minister can correct me if I am wrong, but he might have been one of the SNP members who voted for the legislation on fur farms in Scotland. I am still waiting to see what practical effect that will have. Maybe it is the case that he will vote for some bills that will have no practical benefit and against others that he thinks will have no practical benefit. There is a wee bit of inconsistency and disingenuousness there.

What do we have? Unfortunately, it would appear that we have parties lining up along party lines. I regret that that is the case. [*Interruption.*]

The Deputy Presiding Officer: Order. There are far too many conversations going on among members who have not been in the chamber for the debate. Please desist.

Hugh Henry: I think that it was Kenny MacAskill or Fergus Ewing who quoted Victim Support Scotland, but a wide range of organisations in Scotland support greater protection for workers. I can point to the Scottish Grocers Federation, the Federation of Small Businesses, Asda, Morrisons, Scotmid, the Co-op, as well as a wide range of trade unions including Unison, Unite the Union, USDAW, the CWU and the Educational Institute of Scotland—which supports action to protect teachers—and a wide range of voluntary organisations. All those organisations think that action is necessary to support their members of staff in delivering services to the public.

I ask members who argue that the bill is too wide—which, apparently, is not something that can be dealt with at stage 2—or that it would have no practical effect, to examine their consciences. They should examine what they have already voted for in the Parliament and look very critically at some of the legislative proposals that they will support in the future.

The long and short of it is that the bill represents the culmination of a campaign over a number of years by trade unions who are desperate to protect the members whom they represent and who believe that the Parliament should take a stand by saying that it supports workers. As others have, I have mentioned the implications of our alcohol legislation. We think that it is good enough for shop workers to put themselves on the front line and take abuse in support of the Parliament. If that is the case, the Parliament should do something to support the shop workers who are

supposed to make a difference in solving Scotland's alcohol problem.

I appeal to members to think again and to allow the bill to go to stage 2. Please, do not turn your backs on those Scottish workers who provide vital services the length and breadth of Scotland.

Business Motions

The Presiding Officer (Alex Fergusson): The next item of business is consideration of business motion S3M-7641, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, which sets out a change to standing orders to allow business to start at 9 o'clock tomorrow morning, Thursday 23 December 2010.

16:59

The Minister for Parliamentary Business (Bruce Crawford): In doing so, Presiding Officer, I should explain to the chamber that the purpose of the motion is to allow room for a ministerial statement on Skills Development Scotland.

I move,

That the Parliament agrees that "09:00" be substituted for "09:15" in Rule 2.2.3 for the purpose of allowing the meeting of the Parliament on Thursday 23 December 2010 to begin at 9.00 am.

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S3M-7642, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, which sets out a revision to the business programme for tomorrow.

Motion moved,

That the Parliament agrees the following revision to the programme of business for Thursday 23 December 2010—
delete

9.15 am Parliamentary Bureau Motions

followed by Scottish Government Debate: Violence against Women

and insert

9.00 am Parliamentary Bureau Motions

followed by Ministerial Statement: Skills Development Scotland

followed by Scottish Government Debate: Violence against Women—[Bruce Crawford.]

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S3M-7643, in the name of Bruce Crawford, which sets out a business programme.

Motion moved,

That the Parliament agrees the following programme of business—

Wednesday 12 January 2011

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Ministerial Statement: Reform of the

Police and Fire Rescue Services

followed by

Stage 1 Debate: Autism (Scotland) Bill

followed by

Transport, Infrastructure and Climate Change Committee Debate: Committee's consideration of the Scottish Government's Draft Report on Proposals and Policies on meeting its climate change targets

followed by

Business Motion

followed by

Parliamentary Bureau Motions

5.30 pm

Decision Time

followed by

Members' Business

Thursday 13 January 2011

9.15 am

Parliamentary Bureau Motions

followed by

Scottish Labour Party Business

11.40 am

General Question Time

12.00 pm

First Minister's Question Time

2.15 pm

Themed Question Time
Health and Wellbeing

2.55 pm

Scottish Government Debate: Electricity Market Reform

followed by

Parliamentary Bureau Motions

5.00 pm

Decision Time

followed by

Members' Business

Wednesday 19 January 2011

2.30 pm

Time for Reflection

followed by

Parliamentary Bureau Motions

followed by

Scottish Government Business

followed by

Business Motion

followed by

Parliamentary Bureau Motions

5.00 pm

Decision Time

followed by

Members' Business

Thursday 20 January 2011

9.15 am

Parliamentary Bureau Motions

followed by

Scottish Government Business

11.40 am

General Question Time

12.00 pm

First Minister's Question Time

2.15 pm

Themed Question Time
Rural Affairs and the Environment;
Justice and Law Officers

2.55 pm

Stage 3 Proceedings: Historic Environment (Amendment) (Scotland) Bill

followed by

Parliamentary Bureau Motions

5.00 pm

Decision Time

followed by

Members' Business—[Bruce Crawford.]

Motion agreed to.

Parliamentary Bureau Motions

17:01

The Presiding Officer (Alex Fergusson): The next item of business is consideration of four Parliamentary Bureau motions. I ask Bruce Crawford to move motions S3M-7645, on committee membership, S3M-7647, on substitution on committees, S3M-7648, on a change to a committee remit, and S3M-7649, on the approval of a Scottish statutory instrument.

Motions moved,

That the Parliament agrees that—

Alex Johnstone be appointed to replace David McLetchie as a member of the Local Government and Communities Committee.

That the Parliament agrees that—

David McLetchie be appointed to replace Alex Johnstone as the Scottish Conservative and Unionist Party substitute on the Local Government and Communities Committee.

That the Parliament agrees that the remit of the Rural Affairs and Environment Committee be amended to—

To consider and report on agriculture, fisheries and rural development and other matters (other than climate change) falling within the remit of the Cabinet Secretary for Rural Affairs and the Environment.

That the Parliament agrees that the Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Regulations 2010 be approved.—
[Bruce Crawford.]

The Presiding Officer: The questions on those motions will be put at decision time.

Decision Time

17:01

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

The first question is, that motion S3M-7534, in the name of Margaret Mitchell, on the Equal Opportunities Committee's report on post-legislative scrutiny of the Mental Health (Care and Treatment) (Scotland) Act 2003, be agreed to.

Motion agreed to,

That the Parliament notes the conclusions and recommendations contained in the Equal Opportunities Committee's 4th Report 2010 (Session 3): *Report on post-legislative scrutiny: the Mental Health (Care and Treatment) (Scotland) Act 2003* (SP Paper 468).

The Presiding Officer: The next question is, that motion S3M-7592, in the name of Hugh Henry, on the Protection of Workers (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Alexander, Ms Wendy (Paisley North) (Lab)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
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)
Gillon, Karen (Clydesdale) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Paisley South) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Kelly, James (Glasgow Rutherglen) (Lab)
Kerr, Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
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)
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)

Against

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)
 Carlaw, Jackson (West of Scotland) (Con)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 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)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hume, Jim (South of Scotland) (LD)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 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)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 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)
 Salmond, Alex (Gordon) (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)
 Sturgeon, Nicola (Glasgow Govan) (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)

The Presiding Officer: The result of the division is: For 42, Against 75, Abstentions 0.

Motion disagreed to.

The Presiding Officer: The next question is, that motion S3M-7645, in the name of Bruce Crawford, on committee membership, be agreed to.

Motion agreed to,

That the Parliament agrees that—

Alex Johnstone be appointed to replace David McLetchie as a member of the Local Government and Communities Committee.

The Presiding Officer: The next question is, that motion S3M-7647, in the name of Bruce Crawford, on substitution on committees, be agreed to.

Motion agreed to,

That the Parliament agrees that—

David McLetchie be appointed to replace Alex Johnstone as the Scottish Conservative and Unionist Party substitute on the Local Government and Communities Committee.

The Presiding Officer: The next question is, that motion S3M-7648, in the name of Bruce Crawford, on a committee remit, be agreed to.

Motion agreed to,

That the Parliament agrees that the remit of the Rural Affairs and Environment Committee be amended to—

To consider and report on agriculture, fisheries and rural development and other matters (other than climate change) falling within the remit of the Cabinet Secretary for Rural Affairs and the Environment.

The Presiding Officer: The next question is, that motion S3M-7649, in the name of Bruce Crawford, on approval of a Scottish statutory instrument, be agreed to.

Motion agreed to,

That the Parliament agrees that the Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Regulations 2010 be approved.

Age-related Macular Degeneration

The Deputy Presiding Officer (Alasdair Morgan): The final item of business today is a members' business debate on motion S3M-7433, in the name of Robert Brown, on fighting visual impairment and age-related macular degeneration. The debate will be concluded without any question being put.

Motion debated,

That the Parliament recognises the importance of eyesight to a full life; understands that age-related macular degeneration (AMD) accounts for over half of registered blindness; is concerned that the prevalence of AMD is set to grow markedly with the increasing age profile of the population in Glasgow and the rest of Scotland; notes that treatment for AMD requires repeat application of appropriate treatments, commonly a regime of eye injections, but that outcomes are good if diagnosed early, and believes that it is vital that NHS boards are able to meet demand for treatment effectively now and in the future.

17:04

Robert Brown (Glasgow) (LD): This is the last members' business debate of the year, and I am pleased to be able to devote it to visual impairment—a subject that is close to my heart and my interests as convener of the Parliament's cross-party group on visual impairment.

The loss of eyesight is a grievous disability, whether it be by way of a genetic problem, disease, accident or—as we have seen too often in recent years—war and combat. The loss of eyesight among young men and women is particularly harrowing. Difficult, too, can be the deterioration of eyesight with age, disease or infirmity, which is hugely harrowing experience in terms of the social lives and engagement of many more people.

The Royal National Institute of Blind People Scotland recently compiled a report on the cost of sight loss in Scotland, which looks forward a decade to 2020. It identified that, in 2009, 35,588 people in Scotland were registered with their council as blind or partially sighted, with 2,934 new registrations a year. That is certainly an underestimation by at least 10 per cent of the real incidence of sight loss, which probably tops 40,000. In addition, a further 148,000 people are estimated to have significant sight loss. The overall figure is expected to double by 2031 to almost 400,000 due to increases in the elderly population and various health factors. Those are the sort of casualty figures we might expect from a major war or epidemic. Already one in six outpatient appointments in some areas is for an ophthalmic appointment.

Leaving aside the individual cost, the costs to public services of sight loss are estimated to be £194 million in direct costs and perhaps £434 million in indirect costs—such surveys are always terribly imprecise, but we get the general direction of travel. The figures are rising by £120 million a year.

Today I want to focus on only one cause of sight loss: age-related macular degeneration, which is the cause of sight loss in around half of registered cases. AMD affects the part of the eye called the macula—a small area at the centre of the retina that is responsible for what we see straight in front of us. It allows us to see colour and fine detail. People with macular degeneration often see a dark or blurred spot in the centre of their vision, making it very difficult to read, write and recognise faces or objects and, obviously, impossible to drive. It thereby wreaks devastation on their lives and, to some extent, the lives of those around them.

AMD comes in two forms: dry and wet. The dry version accounts for about 90 per cent of cases. It is untreatable but develops slowly. Wet AMD is much more aggressive and serious, and can lead to significant sight deterioration within weeks, but if there is early diagnosis and effective treatment its effects can be halted, mitigated and even sometimes reversed. The magic treatment is a product called Lucentis that is injected into the eye on a repeat basis—which, I must confess, sounds horrendous. Scotland led the way with the use of Lucentis, which was approved here in 2007, but not in England until 2009.

Across Scotland, the number of patients requiring treatment was around 1,225 in 2009, but the figure is growing, not least due to the need for the repeat injections. In other words, new people come on to the list and have to have on-going treatment. On the other hand, the savings to the national health service and other services are measurable in many millions of pounds. For example, there has been a reduction in registration for blindness or partial sight in Tayside of about 30 per cent, as a consequence.

There is agreement among clinicians that the current level of service is below standard, notwithstanding that there has been tremendous progress in recent years. It is partly a challenge of the growing scale of the problem. One requirement is the need for additional clean rooms, operating theatres and equipment to carry out the procedures. The procedure has to be done in completely sterile conditions and competes for operating theatre time with other procedures. The problem has grown in recent years.

Anyone who has been to their optician recently will know that there have been immense changes in the quality of the check-up, with new equipment

in use following the introduction of free eye tests in 2006 and the replacement of the traditional eye test by the comprehensive eye check-up that we have developed under the aegis of the Scottish eye care group. However, there is a growing need for additional OCT—optical coherence tomography—machines to aid diagnosis. The machines are not particularly expensive, but nor are they anything like as widely available across the country as they should be. There are also problems of inadequate staff levels and the need for improved follow-up services for patients, such as more patient counselling.

In the spirit of Christmas, I have not named individual health boards, but regional variations of service are clearly apparent and there is a need for a nationally agreed standard of provision. An audit of facilities that was carried out by the manufacturers of Lucentis identified the extent of some of the issues. In one health board area, for example, the comments across the hospitals were:

“Expand service ... once OCT and clean room are ready ...

Clean room and nursing staff required

Clean room and OCT needed

A secondary care OCT required, clean room and nursing staff

Clean room required

OCT required, clean room in Optha department required”.

I make that point not to single out any health authority, because there is a growing challenge, particularly for Government, in these days of financial restrictions. However, the procedures preserve eyesight, protect independent living and stop greater calls on health and care services. Therefore, I hope that the minister will be able to comment on those issues in detail in replying to the debate today, or in follow-up correspondence.

I began by using words such as “devastation”, “grievous disability” and “harrowing experience”. Nevertheless, I am bound to say that the opportunity to engage with RNIB Scotland, the Royal Blind School, Guide Dogs and the other organisations that deal with visual impairment matters has been enormously inspiring as well. The work and opportunities for young blind people with Insight Radio; the rehabilitation work that is done with people who have lost their sight; the success of inclusive educational techniques at, for example, Uddingston grammar school; the commentary-accompanied Bollywood film that I saw recently in Glasgow; the activities of Haggeye, the RNIB’s youth-led organisation; and, perhaps above all, the inspirational work of the superb blind musicians who entertained us to a high professional standard a few months ago, reading music in Braille format, demonstrate that,

despite challenges, the human spirit has no limit. The potential of interactive communication technology is also a universe away from the totemic white stick and has widened the life chances of many people.

Nevertheless, it is the job of Government and Parliament to make sure that national health service boards are able to meet the growing demand for the key treatments, which are so significant to so many people; that eyesight is preserved, not compensated for; and that people cease to have the worry of unnecessary sight loss.

I am grateful that members have stayed behind tonight to listen to and take part in this last members’ business debate of the year, and I have very great pleasure in speaking to the motion in my name.

17:11

Stuart McMillan (West of Scotland) (SNP): I congratulate Robert Brown on securing the final members’ business debate of 2010. I understand that the debate was to have taken place some time in January, but I am sure that Robert Brown’s persuasion and the importance of the subject helped to bring it forward.

I was only too happy to sign the motion, as I am one of the deputy conveners of the cross-party group on visual impairment, of which Robert Brown is the convener. Like other cross-party groups in the Parliament, it provides a valuable interface between the Parliament and members of the public, not to mention organisations such as RNIB Scotland and Guide Dogs. Robert Brown also mentioned Haggeye—RNIB Scotland’s youth group—which is awe inspiring in what it achieves. That interface can only be a good thing in helping MSPs to understand the issues that affect the country.

I do not intend to go over all the ground that has been laid out by Robert Brown, but I will touch on a couple of issues. Before I do so, it is important to stress the major strides that have been taken by the current Government and the previous Executive in eye care. The introduction of free eye tests has been a policy of which the Parliament and Scotland can be proud. It has followed the prevention model of intervention, which should be used more widely across the public sector. Prevention is always better than cure and tends to be cheaper in the long run. In these straitened times for the public sector, Scotland needs to work more on the prevention model.

With neovascular age-related macular degeneration—AMD—accounting for more than half of all registered blindness in Scotland, there is obviously a problem to be dealt with. Wet AMD, which is the more aggressive of the two forms,

affects only 10 per cent of patients, but can be treated early. Saving the vision of one person is a gift that society can offer, but the value of saving the eyesight of potentially many more is incalculable. The issue highlights the importance of the NHS in Scotland as well as the importance that Scottish society places on dealing with sight loss.

In 2009, there were 1,225 people throughout Scotland with wet AMD who required treatment. Although tremendous progress has been made in the NHS, there remain a number of challenges that need to be addressed. In any walk of life, nothing is perfect and there can always be improvements. Why should eye care be any different, particularly as such a low base was in existence until the free eye test was introduced? I cannot touch on all the challenges, but a couple of them are the regional inequalities in treatment and criteria, which Robert Brown touched on, and the need for improved services for follow-up patients—for example, patient counselling is deemed to be below the adequate standard.

Through the cross-party group and, indeed, constituents, I have heard examples from life of how people were told that they were going to lose their sight. Obviously, their first reaction was utter shock, but one issue that has come up time and again is the lack of counselling or signposting to counsellors. There is no doubt that people who receive such devastating news require support—exactly the same applies to people who are told that they have cancer—and counselling is absolutely vital.

I hope that Parliament will continue its good record on such matters. We should not beat ourselves up about not having the right solution at the moment; the truth is that we are nowhere near the summit in dealing with sight loss, including wet AMD, and with every day that passes our constituents are presented with life-changing experiences, which is bound only to increase with an ever-ageing population.

I welcome the debate and the fact that the issue has been raised in Parliament. I am sure that the whole Parliament is committed to improving the service for everyone who has to deal with sight loss.

17:16

Dr Richard Simpson (Mid Scotland and Fife) (Lab): I welcome the fact that Robert Brown has secured a debate on this important topic, not least because ophthalmology is one of a number of national health service departments that are under severe pressure. Dermatology, for example, is under huge pressure from referrals for potential melanoma diagnoses, while ophthalmology is

under pressure from the increase in the number of cataracts, age-related macular degeneration, diabetic retinopathy and glaucoma. Moreover, one considerable concern is the increase in cases of type 2 diabetes—and its associated retinopathy, which is still one of the major causes of blindness—as a result of the growing problem of obesity.

The situation with visual impairment is improving as a result of the free eye tests to which Robert Brown referred and that stand as one of the best achievements of the last parliamentary session under the Liberal-Labour Government. We need to do more to promote those tests, although I concede that the numbers taking them have grown enormously. There is no doubt that getting tested early will make it less likely that someone will suffer visual impairment, given the number of conditions—including the excellent example of wet AMD—that are treatable. In Dundee, which has a fairly comprehensive service, the number of new visual impairment registrations has fallen by about 20 per cent. That reinforces the point made by Robert Brown and Stuart McMillan that great regional variations are bad, not only for patients but for the health service in the long term and, indeed, for all services, particularly if we bear in mind the fact that someone who becomes visually impaired requires a huge amount of support.

Wet AMD is a classic example of the problems that face the health service. Just a few years ago, it was untreatable. I believe that it accounts for only 10 per cent of the total incidence of macular degeneration, not all cases of which can be treated. However, with the very latest treatments, the condition is almost reversible, which is interesting—although I point out that those treatments are even more expensive than those that were introduced initially.

I will be interested to hear what the minister says in her summing up, but I believe that the system needs to be reviewed urgently, because departments are being overwhelmed. There is a great need for an effective national optometry contract, as part of the optometry service, to deal with all the follow-ups that will be needed. Robert Brown said that so far there are about 1,100 cases of this condition, but that is only the beginning, not the end, and the numbers will increase hugely. Follow-ups will be required to ensure that the condition has stabilised and to establish that further treatment is not needed, and if monitoring arrangements are not shared with the optometry service, the whole system will simply collapse.

In its aims to improve eye health and eliminate avoidable sight loss, RNIB's VISION 2020 UK initiative is extremely valuable and very much to be welcomed and I also praise the Macular

Disease Society for its important efforts to raise awareness of AMD.

The last point that I want to make is that the arrangements are a very good example of the procurement risk-sharing arrangements. We need to consider those arrangements regularly to check whether the initial risk sharing has reflected the true risks. That may require an adjustment in the cost-price arrangement with the pharmaceutical industry to ensure that the risks are genuinely being shared.

17:20

Nanette Milne (North East Scotland) (Con):

As we have heard, sight loss is becoming a serious issue in Scotland. It is expected that its incidence will double in the next 20 years, largely as a result of the ageing population, but also as a result of the huge rise in type 2 diabetes in the many people who are obese because of their poor diet. That will have a major impact on health and social services, and Robert Brown is to be commended for raising members' awareness of the situation by securing this debate. I apologise for failing to sign his motion; that was an omission on my part.

We know that age-related macular degeneration already accounts for more than 50 per cent of all registered blindness, and that figure will undoubtedly increase as the population ages. The affliction is a serious one that has a major impact on people's lives. It certainly ruined my mother's last few years. She became quite seriously depressed as a result of losing her ability to read books, which was a lifelong passion that could not be satisfied by the talking books that she was offered as a substitute. There are certainly more and better magnification aids available now than were available then, but reading or watching television with them is a real hassle for elderly people who find it difficult to learn new techniques. Within a few weeks, an uncle and a close friend went from being able to drive a car to finding it difficult to recognise faces when they met people. The affliction interferes with people's lifestyles in a major way, particularly those of people who live in rural areas and depend on their cars to get around. It is obviously key to their welfare that they receive whatever help is available as soon as possible.

Unfortunately, the common dry type of macular degeneration is currently untreatable, but something can be done about the aggressive and rapidly progressive wet form, as we have heard. It is therefore important that it is diagnosed early, when treatment to reverse it, halt its progress or at least mitigate its effects can be effective. Robert Brown referred to that in his speech. Older people must be encouraged to have regular eye checks

so that AMD can be picked up early. Eye checks are freely available, so there is no reason for anyone not to see an optician regularly.

Because of my family history of macular degeneration, my optician has encouraged me to check for it regularly by looking at a card with a grid printed on it, which is available from opticians, or a crossword puzzle grid, to check whether the lines are straight. If they are seen by either eye to be at all wavy, that could be a signal that all is not well and that an urgent optician appointment is necessary. It would be beneficial if the importance and ready availability of such a simple test was made known to the older population in general so that older people could look out for early signs of something that would ruin their lives if it was not diagnosed and treated early.

Unfortunately, as with many medical conditions that we hear about in members' business debates, there are postcode issues with services for macular degeneration. In its helpful briefing for the debate, the RNIB stated:

"Regional inequalities in treatment and criteria are particularly evident."

The RNIB sees a clear need for a nationally agreed standard of provision, taking into account, obviously, that resources will vary across regions. It has also highlighted the need for improved services for patients who have already been diagnosed, such as counselling services, which Stuart McMillan mentioned. Counselling is below an adequate standard in most parts of Scotland.

As we have heard, there are also issues to do with equipment and accommodation. I agree with Robert Brown that it is vital that NHS boards are able to meet demands for treatment now and in the future. That will reduce the demands that are placed on social and mental health services by patients who find it difficult to cope with the development of visual impairment in their later years. To that end, the Government should look at putting in place a formal five-year plan for the provision of macular services in Scotland, as recommended by the RNIB, if that is not already being considered.

I look forward to the minister's response.

17:25

James Kelly (Glasgow Rutherglen) (Lab): I welcome the opportunity to take part in the final members' business debate of 2010 and I congratulate Robert Brown on securing the debate and on the motion on age-related macular degeneration. I pay tribute to Robert Brown for his work as convener of the cross-party group in the Scottish Parliament on visual impairment. He has a real commitment to the issue, as was demonstrated by his impressive speech.

Stuart McMillan, who, like me, is a vice-convenor of the cross-party group, highlighted the group's importance in interfacing with the Parliament. I underline the contribution of James Adams, the group secretary, and of two members from my constituency, Jimmy O'Rourke and Margaret O'Rourke. They are both visually impaired, but that does not stop them being active members not only of the cross-party group, but of many community and trade union groups and campaigns. We should hold them up as a shining example to us all.

There is no doubt that we all take eyesight for granted. As we get near Christmas time, people, particularly those with young families, enjoy the time with young children. However, imagine if we were robbed of our eyesight and were not able to see the pleasure on the children's faces when they open their presents on Christmas morning. We take eyesight for granted. Thinking about the potential loss of eyesight demonstrates how important the work is on issues such as age-related macular degeneration.

As Robert Brown says, the condition accounts for half of registered blindness. As the age profile of the population is changing, there is potential for the problem to affect more people. The debate has focused on what the NHS can do and, as with many such debates, it is set against the background of budget reductions. However, a clear case can be made for appropriate treatment of the condition to be provided. As Nanette Milne said, early diagnosis and intervention are key. If health boards are geared up to diagnose the condition at an early stage, there is an opportunity to treat it and to introduce appropriate improvements.

Consistency among NHS boards is important, particularly when costs are an issue. To be honest, I am not aware of examples of good practice in NHS boards throughout Scotland, but they must exist, and that good practice could be rolled out to other boards that are perhaps not as proactive. As Robert Brown demonstrated through the statistics that he quoted, if we can give people quality eyesight for longer, they can make more of a contribution to the economy and we can give them the appropriate quality of life. It is important for health boards and the Parliament to deliver that.

I thank Robert Brown for bringing the issue to the Parliament. It is important, and members have given good voice to the issues.

17:28

The Minister for Public Health and Sport (Shona Robison): I, too, congratulate Robert Brown on securing this important debate. It is

estimated that about 23,000 Scots are visually impaired as a result of age-related macular degeneration. I am sure that we all know someone among our family or friends who is affected by the condition. The Scottish Government takes the condition seriously and I am therefore pleased to reply to the issues that are raised in Robert Brown's motion.

Before I respond to the specifics of the motion, I will say a little about where we are in respect of developing and improving eye care services in Scotland. Following the introduction of the new NHS eye examination in Scotland, we are now generally acknowledged as a world leader in the provision of high-quality and effective eye health care services, and that is a good place to be. The Government has made substantial funding available for optical practices to purchase digital cameras and other associated equipment to undertake the new examination and take photographs of the eyes to monitor related health conditions.

Clearly, we have the infrastructure in place to provide improved eye health care to the people of Scotland. Encouragingly, the take-up of the new eye examination, which is free and will continue to be free, continues to grow. In the year ending 31 March 2010, approximately 1.8 million NHS eye examinations took place in Scotland, which is up almost 90 per cent on 2006, when the new examination was introduced. That amply demonstrates that people in Scotland are taking on board the message about the importance of maintaining good eye health care and are making good use of the services that are in place.

When the "Review of Community Eyecare Services in Scotland" was published in December 2006, it recommended making changes to improve the integration of community eye care services; the quality of patient care; and the efficiency of the service. To help facilitate those changes, we made available £2.6 million of pump-priming funding. NHS boards, in partnership with their stakeholders, submitted proposals for that funding for improving the delivery of eye health care services to adults and children. That source of funding has supported the implementation of the principles within the eye care review.

A wide range of projects received pump-priming funding, including an ethnic minority eye health project in Glasgow, which has helped to increase the awareness in ethnic communities of the importance of good eye health.

I was pleased when John Legg offered RNIB Scotland's assistance to the Scottish Government to help keep a track on the progress of the various pump-primed projects and with the subsequent monitoring.

An evaluation framework was developed to reflect the principles within the eye care review, which enables NHS boards and their partners to report the progress of pilot projects. The report shows that NHS boards and their partners have evidenced commitment to improving services and outcomes for visually impaired people. The principles within the review have been fully embraced, with significant modernisation of services taking place in order to improve the quality and consistency of care that is being delivered across Scotland.

Although, not surprisingly, some projects have developed faster than others, there has been systematic development of integrated eye care networks throughout Scotland, with partnership structures and leadership being well established. Progress reports indicate that approximately 80 per cent of the population now have access to integrated eye care services. That is a major achievement.

Although integrated eye care networks are focused within community services, some networks have been further enhanced to include acute services. For example, in Lanarkshire, a particularly effective low-vision service has been established. Stakeholder events have been undertaken and focus groups have been established across project areas to inform and influence the planning and development of services.

In summary, the investment from the Scottish Government has created an opportunity for a national approach to the improvement of services for people with a visual impairment.

Robert Brown: Can the minister say anything about the OCT machines? There is a challenge in that regard. I accept that she might have been about to speak about the matter.

Are there any unhelpful obstacles in the way in which health boards are funded that might drive the finance elsewhere and prevent full advantage being taken of it?

Shona Robison: Robert Brown makes a fair point. OCT machines are an important element of what we are trying to do. I am sure that he will be pleased with some developments that will take place in the new year in a health board that is close to his heart, which will, we hope, improve matters.

On age-related macular degeneration, others have mentioned RNIB's "Cost Oversight" report, which examines the cost of eye disease and sight loss in the United Kingdom today and in the future. The report makes stark reading. For example, the direct, indirect and quality-of-life costs of sight loss in the UK in 2008 were estimated at £22 billion. Given the increase in the elderly population over

the five-year period from 2008, those costs are projected to increase significantly by a further £7.6 billion in 2013. The report also focuses on age-related macular degeneration and concludes that, if we can provide early detection and access to treatment, the cost of partial sight and blindness to the individual and society will be contained.

However, this is not just about money. It is, above all, about the quality of life of the people of Scotland. Of course, we want to prevent avoidable sight loss whenever possible. The introduction of the universally free eye examination has been, as other members have said, a major step forward. It allows patients to receive free of charge an appropriate health assessment of their whole visual system, and it helps to provide early identification of eye conditions such as AMD. It gives optometrists and ophthalmic medical practitioners the professional freedom to perform the tests that are appropriate to patients' symptoms and needs, and it allows for the management of a wide range of common conditions in the community.

Importantly, the eye examination promotes optometrists and OMPs as the first point of contact for eye problems. Early referral to the hospital eye service can only be beneficial for patients who might be suffering from AMD, as it is important—as other members have pointed out—that wet AMD is treated as quickly as possible.

I am acutely aware that members who are participating in tonight's debate believe that it is vital that NHS boards are able to meet demand for treatment effectively, now and in the future. I assure members that patient safety is always at the forefront of our concerns. That is why we devote so much attention to ensuring that patients who are waiting for review appointments for chronic conditions are seen within clinically appropriate waiting times.

In the area of eye health, officials are working with eye care Scotland and NHS boards to assess current capacity for return out-patient appointments to manage chronic eye conditions such as diabetes, glaucoma and age-related macular degeneration. Recommendations will be forthcoming on the effective management of return out-patient services to ensure that capacity is available to meet projected changes in demand, and I am happy to keep Parliament updated on that. I do not pretend that in the current circumstances those issues will be straightforward to address, but the recommendations will help us to identify whether any service redesign or other change is required to meet that demand.

One recent step will, I believe, make a significant contribution. We recently approved the business case to provide an innovative link between optometrists and ophthalmology

departments. That important development, which has been warmly welcomed by all parts of the profession and by members on all sides of the chamber, should increase efficiencies and speed up the process for patients who need to be seen quickly by hospital eye departments. A steering group has been formed to take forward the project and it will hold its first meeting in January. We are also making funding available to NHS boards to enable them to develop their individual implementation plans.

I welcome tonight's debate, and I assure members that we aim to continuously improve our eye services for patients, particularly for those who suffer from AMD.

Meeting closed at 17:37.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice to SPICe.

Members who wish to suggest corrections for the revised e-format 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

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

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

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 978-0-85758-384-0

Revised e-format available
ISBN 978-0-85758-392-5