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Plenary, 07 Feb 2008

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

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[Survivors of Institutional Abuse](#)

• [The Presiding Officer \(Alex Fergusson\):](#)

The first item of business is a statement by Adam Ingram on support for survivors of historical in-care and institutional abuse. The minister will take questions at the end of his statement and there should therefore be no interventions.

• [The Minister for Children and Early Years \(Adam Ingram\):](#)

The determination of the Scottish Government to improve the life chances of children who are looked after is well documented. We all acknowledge that there are no easy fixes and that achieving fundamental change will take years. However, in many areas, there is tangible progress.

That said, we cannot forget the physical, emotional and sexual abuse of children that took place in Scotland's residential establishments. The issue has been a running sore in Scotland's history of taking care of children who could not live at home. The pain and trauma of those experiences were eloquently and bravely set out by survivors in their petitions to the Scottish Parliament. The cross-party group on survivors of childhood sexual abuse plays a crucial role by reminding us of survivors' concerns.

My statement today sets out the progress that we are making to improve the support that is available for survivors of in-care and institutional abuse. I make it clear that this statement is made on behalf of the whole Scottish Government. My ministerial colleagues and I cover the range of survivors' interests and, collectively, we are determined to work closely with our partners to achieve real change.

Survivors' commitment and action led, in 2004, to the then First Minister's apology for the abuse committed. He put in place a raft of work to get to the heart of how that abuse happened and to help us understand how we could prevent abuse on such a scale from recurring. One important area of work is the review that was led by independent expert Tom Shaw and which published, in November 2007, the document "Historical Abuse Systemic Review: Residential Schools and Children's Homes in Scotland 1950 to 1995".

The Scottish Government is pleased to accept the recommendations of the Shaw review in full. There are a few differences in the detail of some of our proposals for taking forward the recommendations, but there is nothing that will affect their substance or intent.

In relation to Shaw's recommendation on the introduction of support services for in-care abuse survivors, I am pleased to inform Parliament of recent developments. Within the context of

survivorScotland, the national strategy for adult survivors of childhood sexual abuse, which is being led by the Minister for Public Health, we intend to improve the well-being of, and services for, all survivors and to raise public awareness of the existence and impact of all forms of abuse.

The reference group that is taking forward survivorScotland has recognised the specific needs of in-care abuse survivors by establishing a sub-group, which is chaired by Gary Westwater and is made up of survivors and other stakeholders. That group concluded its work this week with proposals for a national service framework. It wants a national hub that provides advice and information and is able to link up with the local services that in-care survivors need, which should include advocacy, mediation and counselling services.

I am persuaded in principle that that is the way forward. I have made available central funding for the next three years and, subject to the comments of the survivorScotland reference group, I expect to be able to move ahead quickly with the procurement of this national service.

More widely, the Scottish Government has listened to survivors and their explanations of the importance of society acknowledging the suffering that they have experienced. At the moment, the courts are the only avenue by which survivors can receive such public acknowledgement. Of course, it is essential that abusers are brought to justice, but often that route alone will not meet survivors' needs.

I am pleased to inform Parliament that we have been actively scoping the adaptation of the principles of a truth and reconciliation model. We are committed to that. We are considering good practice examples for establishing a forum to give survivors the chance to speak about their experiences and to help them come to terms with the past. That will provide an invaluable opportunity to establish the facts, learn from the suffering and use the experience to help us protect and provide for children in the future.

I assure Parliament that, as the process develops, there will be further consultation with survivors of abuse, organisations that provide them with support and information and other providers of care that share with Government responsibility for acknowledging and supporting survivors.

In that context, I turn now to the Scottish Law Commission report "Personal Injury Actions: Limitation and Prescribed Claims", which was published on 5 December. The time bar is an issue in cases involving survivors of in-care and institutional abuse. That has recently been brought directly to members' attention through a letter from a survivor. My ministerial colleagues and I have every sympathy for survivors of abuse. However, the Scottish Government accepts the Law Commission's recommendations that prescribed claims should not be revived. The events in question took place before September 1964, and any attempt to legislate to revive those very old cases would run into very serious difficulties in relation to retrospection and European convention on human rights considerations.

The Law Commission's report does not make specific recommendations for survivors of abuse in relation to the limitation period for raising a claim, which is currently three years. It recommends the continuation of non-time-limited judicial discretion for cases outwith that period.

We genuinely do not believe that a change in the law to give abuse survivors a right to take any case to court would actually right the wrong in question and provide positive outcomes for survivors. Changing the law is not the way to tackle this issue. The Government's focus is the development of the forum that I have just described.

Another aspect of support for survivors that was identified by the Shaw review was the importance of ensuring that survivors and past residents could access their records. It is a tragedy that so little value was placed on keeping children's records. The stories of adults discovering from their records that they had siblings or finding out details of their families' circumstances that they never knew before are deeply moving. Even more heart-breaking are the stories of survivors who can find no record of themselves or their family.

We have learned the importance of looked-after children having a diary and memory book and records maintained for them from birth. However, we still have a responsibility to support adults to access their records and to make sure records for children in care now are properly stored.

The Shaw report rightly makes important recommendations about records and record keeping. The first is the need for a review of public records legislation. There are clear advantages in such a review, as the existing law is more than 60 years old. We have therefore asked the keeper of the records of Scotland, in consultation, to review the legislation on public records in the light of the shortcomings that were exposed by Shaw.

Shaw also stresses the importance of using the existing law to improve the management of and access to children's records. Shaw recommends that children's organisations use the section 61 code of practice on records management from the Freedom of Information (Scotland) Act 2002. We agree, so we will seek to include that code as a model for best practice within the looked-after children regulations, which are currently out to public consultation.

Shaw highlights the overriding concern of the survivors to whom he spoke that all those responsible for children in residential care now and in the future must learn the lessons of the past. He outlined the need to develop a culture in residential child care that is founded on children's rights and the need to raise respect for those children. I whole-heartedly agree with him. I want to work with partners to make residential care the first and best placement of choice for those children whose needs it serves. The starting point must be improving the status, morale and skills of residential care staff, who have among the toughest of jobs in caring for our most vulnerable children. We depend on their dedication and commitment, and they deserve improvements.

I am pleased to announce that the Scottish Government intends to take the necessary steps to require residential child care workers to register with the Scottish Social Services Council. Of course, many such staff have already registered with the council, but progress is not good enough. We must ensure that all staff register with it in order to secure a well-qualified and highly professional workforce. We will engage with a range of key stakeholders, including employers and the council, to ensure that all parties are well placed to take forward such a vital agenda.

More widely, the Scottish Government is committed to the long-term, sustainable development of the social services workforce in Scotland. We have been working with the social services sector to build capacity and skills through developing a continuous learning framework, which will help everyone in the sector to manage their career development and learning more effectively, and through a programme of action to improve leadership capacity.

Further improvements in residential care are also required. I will invite a range of partners to work with us to help achieve residential care of the best possible quality. I will look for recommendations on how we can achieve a supply of residential child care that matches the full range of needs of children and young people. We must also strengthen care planning for children in and out of placements by using the getting it right for every child framework. Furthermore, we must develop a more consistent approach to commissioning that is based on the desired outcomes for all children, with agreed roles and responsibilities for commissioning authorities and providers. We need to achieve agreement among providers, local authorities as corporate parents, the inspectorates and others on respective responsibilities for ensuring safety and good-quality care for children. I expect to receive early proposals on how those challenges can be addressed by June this year.

I want partners to ensure that we demonstrate that we have learned the lessons that are set out in the Shaw review and other inquiries, but of course we need to be continually alert to the potential for the abuse of children and ensure that our systems for listening to children are continually refreshed.

In October, I announced that the Scottish Government and Glasgow City Council had jointly commissioned an independent inquiry into abuse at Kerelaw and that further details would follow. Today, I have placed on the Scottish Government's website the jointly agreed terms of reference for that inquiry. The inquiry team will engage thoroughly with survivors and ensure that their voice is central to the inquiry. Ex-members of staff will also be invited to provide insights into how abuse occurred over a long period of time without being prevented. The inquiry team will produce further details on its engagement with all relevant parties as its work continues. When the inquiry concludes, we will have a comprehensive picture of the strengths of the systems that we have in place to protect children and keep them safe, the shortcomings of those systems and further improvements to them that may be necessary.

Knowing what we know now, the Scottish Government considers that no further inquiries into

historical abuse are necessary. Rather, our efforts will focus on the prevention of abuse in residential care and on the provision of support for survivors now. I am sure that all members will agree that the programme that I have set out will, over time, transform support for survivors.

The time for saying that we need to learn the lessons of historical abuse is over. Survivors deserve visible signs of progress. Their campaigning and willingness to share the horror of what they suffered will result in important changes that will help to protect children in the future.

- The Presiding Officer:

The minister will now take questions on issues raised in his statement. I intend to allow around 30 minutes for questions, after which we will move on to the next item of business.

- Mary Mulligan (Linlithgow) (Lab):

I thank the minister for his statement and for the early sight of it, and I join him in thanking Tom Shaw for his comprehensive report. We all recognise the many practical challenges that Tom Shaw faced. The report was commissioned to consider past systems, but I particularly welcome the fact that he took time to speak to former residents before he constructed his recommendations, which built on their clear desire to protect current and future residents of residential care homes.

The minister spoke of a forum that will give survivors of abuse a chance to speak about their experiences. Will past workers in residential units be involved in that forum? Will it reflect the Irish example? In Ireland, the Government provides funds to make fair and reasonable awards.

The report recognised—as the minister has done in his statement—the crucial need to improve the training of residential care staff and other social workers. In the past, there was a specific budget of £6 million for social work training, but funding for such training is now part of general local authority funding. How will the minister ensure that money for social work training is protected and that every local authority can adequately fund such training?

Finally, the minister said that Shaw outlined the need to develop a culture in residential child care that is

"founded on children's rights and the need to raise respect for those children."

How will the Government ensure that every child who is being looked after or is in residential care will have their voice heard?

- Adam Ingram:

Perpetrators will, obviously, be invited to take part in the proceedings of the truth and reconciliation forum, as has happened in models elsewhere in the world—the South Africa model is the classic example. However, I am open to persuasion on the example that we should follow. You mentioned the Irish model, but models exist in other parts of the world. New Zealand provides an interesting example. Financial compensation or redress is not part of the picture there. The key issue for survivors of abuse is to be able to relay their experiences, get them out into the public domain and have them recognised, and to get perpetrators or organisations that were responsible to admit what happened. That is the key element that allows individuals to move forward with their lives and lead fulfilling lives, and not to continue to be scarred by what happened in the past. As you know, the Catholic Church in Ireland has put up a substantial amount of money to assist financial compensation. At this stage, I am not persuaded that we should follow that model, but, as I said, I am open to persuasion and argument.

I turn to social work training and qualifications. It is clear that some of the problems with residential care and other social care services were a consequence of people's lack of qualifications, knowledge and understanding. We must improve the skills set in the social care workforce. Shaw highlighted that matter, and it is a priority of mine.

Under the new relationship with local government, we will work with our local authorities on the matter to maintain and improve training efforts at the local level. Just yesterday, I spoke at a conference hosted by the Scottish Social Services Council, at which a learning qualifications framework and new qualifications were introduced.

The key finding of the Shaw report relates to children's rights. Throughout the history of abuse, children were not listened to—their stories were not believed. We must address that. Last October, in my first statement on the subject, I indicated that I had spoken to the Commissioner for Children and Young People in Scotland about how to engage children in the Kerelaw inquiry. The key to future progress is to ensure that children's voices are heard and believed in residential care systems.

- The Presiding Officer:

Minister, I encourage you, as I encourage all members, not to refer to other members in the second person singular, but to use their full names. Thank you very much.

- Elizabeth Smith (Mid Scotland and Fife) (Con):

I pay tribute to the Government for bringing the matter urgently to the Parliament and I thank the minister for early sight of his statement.

There is no question but that we give our unequivocal support to addressing the issue, and I am sure that the same is true of all political parties in the Parliament.

I have two highly specific questions. First, will you clarify—

- The Presiding Officer:

I am sorry—my instruction not to use the second person singular applies not just to the minister, but to all members.

- Elizabeth Smith:

In his statement, the minister said that the Scottish Law Commission report

"does not make specific recommendations for survivors of abuse in relation to the limitation period for raising a claim, which is currently three years."

The report recommends that, outwith that period, the absence of a time bar should continue. Am I right in thinking that that is a matter for judicial review? Although the Government cannot interfere with judicial discretion, will it monitor the situation as regards cases that do not fall within the three-year period?

Secondly, will the minister provide additional information on how the hub system to which he referred will interlink with existing Government mechanisms and with the many local services that people who have been victims of abuse take advantage of, which help to allay some of their fears?

- Adam Ingram:

The time bar is an issue of some controversy. I emphasise that, in Scotland, the courts exercise their discretion in such cases. However, no guidance is provided to judges on how they should exercise that discretion. The Scottish Law Commission report recommends that such guidance should be issued. We will respond to that recommendation shortly, and to the notion of extending the limitation period from three to five years, which will apply to compensation claims for personal injury as well as those for abuse. We are not doing nothing on that front—we are making progress on it.

With regard to the hub system, as Elizabeth Smith might be aware, we are building on the survivorScotland strategy for survivors of childhood sexual abuse by extending services and support mechanisms to survivors of in-care abuse. Some £1.7 million has already been made available, over a two-year period, to 25 organisations to develop a range of services for survivors, so a network of expertise and support mechanisms is being built up. We hope to build on that initiative through the sub-group's proposals. As I said in my statement, I hope to commission services from the survivorScotland reference group and the sub-group immediately, and something should be up and running by the summer.

- Hugh O'Donnell (Central Scotland) (LD):

I thank the minister for the advance copy of his statement. As other members have said, we are all supportive of the expeditious way in which the matter has been brought to Parliament for consideration. The Liberal Democrats are fully supportive of the Shaw report's recommendations and we welcome the Government's determination to implement them. However, there are a number of issues that I would like the minister to clarify.

What level of funding will be provided for the national hub? What will the source of that funding be? Is the minister able to tell us about the likely composition of the truth and reconciliation centre that he mentioned? What powers to call witnesses will it have? For example, will it be able to compel witnesses to appear? Will the code of practice on record keeping cover all local authority records as well as those of voluntary organisations? Will such records fall within the scope of both freedom of information legislation and protection legislation?

- Adam Ingram:

The member's first question was about funding. I assure him that funding has been secured for the new services for in-care abuse survivors. I mentioned that £1.7 million has already been set aside for services for the survivors of childhood sexual abuse, the provision of which we will extend to survivors of in-care abuse.

As regards the truth and reconciliation model, we must discuss with survivors, representatives of survivors groups and other stakeholders what powers any such forum will have, to ensure that the model that we adopt will be effective. A number of issues must be considered carefully, not least because some truth and reconciliation models elsewhere in the world have failed. For example, the failure of the model that was adopted in Nova Scotia has probably added to the considerable number of problems that were already faced.

The member's final question was about the code of practice. As I said in my statement, significant problems were experienced with record keeping and the management of records. We suggest that the keeper of the records of Scotland should review the current public records legislation, which is 60 years old. In principle, we are prepared to introduce legislation to amend and update the law in that regard. As far as freedom of information is concerned, children's records are, of course, confidential and should not be available to everyone. However, we are keen to ensure that when children become adults, they are able to access all the records that are available to them.

- The Presiding Officer:

We come now to back-bench questions. There are nine members who wish to ask questions and 15 minutes to fit them in—I encourage brevity in questions and answers.

- Sandra White (Glasgow) (SNP):

I thank the minister for his statement, and I pay tribute to the survivors of abuse. The minister mentioned the time bar, which—as we know—prevents victims from taking action against their abusers. I understand that it would be very difficult to pursue some cases, considering the timescale, and I welcome what the minister says about the guidance and the extension of the limit from three to five years. The minister will, however, be aware of the recent ruling in England that virtually ends the time bar. If the forum that the minister mentioned does not meet the needs of survivors of abuse, will the Government examine the time bar again?

- Adam Ingram:

As I indicated in my remarks, the Scottish Law Commission has investigated that whole area of law, and has concluded that it could not recommend changes to the law. However, the situation in England and Scotland has until recently been different—the non-time-limited judicial discretion that we have in Scotland was not a feature of English law, so we should not make direct comparisons with cases in England.

As I pointed out in my response to Elizabeth Smith, we are seeking to extend the time limitation period and to make other adjustments that will, I hope, address the issues that the member is concerned about. In addition, the truth and reconciliation model that we propose will, I hope, deal

with the key issues of addressing the historical abuse that people have gone through and helping to reconcile their situation.

- Michael McMahon (Hamilton North and Bellshill) (Lab):

I am sure that the minister will be aware that the previous Public Petitions Committee brought this issue to the chamber and that that has ultimately led to today's statement. As I convened that committee, I take a particular interest in the petitioners' position. I know that Tom Shaw's review group involved the petitioners, but will the minister tell members what discussions he has had with the petitioners? Have the petitioners indicated which issues remain outstanding and how will they be involved in developing the report's recommendations?

- Adam Ingram:

I have had no direct discussions with the petitioners as yet, although I pay tribute to them for bringing their petitions to the Scottish Parliament, and to the work of the Public Petitions Committee in that regard. However, I am keen that survivors, including some of the petitioners, make a significant contribution to putting together the truth and reconciliation model that we are talking about. I want to ensure that all their concerns are properly addressed.

- Trish Godman (West Renfrewshire) (Lab):

In your statement, you say that you believe—

- The Presiding Officer:

I ask the member to refer to "his" statement, please.

- Trish Godman:

Oh dear, imagine me getting that wrong. Minister, in your statement you state that the Government believes in improving status, morale and skills for residential staff. I worked in a residential list D school for three years. I had no qualifications, and I walked in the door because I knew somebody who knew somebody who worked there. I knew nothing about the girls, I was never told anything about them and no information was shared with me within or outwith the home so, for me, staff training is imperative.

Minister, can you assure me, on the record, that the single outcome agreements with local authorities will be adequate to ensure proper social work training? Will you—I mean, the minister—also say whether you will check the progress of those single outcome agreements? It is not very good if you are only checking every so often and then, between checks, we discover that the training is not taking place. From the councils' point of view—and I hate to say this—social work training is an easy budget to cut.

Minister, will you also assure me that advocacy for both previously and currently looked-after children will be properly funded and the right to advocacy explained to the survivors and the children? We set targets—will you continue with them?

- The Presiding Officer:

I will not, but we will ask the minister.

- Adam Ingram:

The Government currently provides funding in the region of £2.2 million to the Scottish institute for residential child care, which assists with training in the residential care sector. What I announced today is essentially an upgrading of our efforts to improve training and to try to ensure that every staff member in a residential home has appropriate training. We are requesting that every staff member registers with the Scottish Social Services Council, and with that registration comes the obligation to acquire skills in relation to continuous professional development.

The indicators and outcomes in single outcome agreements are very strong in this particular area, and it is critical for the success of our approach that proper monitoring and scrutiny are put in to

ensure the outcomes that we are all looking for.

I am sorry, I did not quite catch Trish Godman's last question, but I can perhaps respond to her in writing.

- Christina McKelvie (Central Scotland) (SNP):

I welcome the minister's announcement about the acceleration of registration for child care staff. My previous employers and colleagues will be delighted at such a commitment from the minister. Can he tell us about the work that he will undertake with the Scottish Social Services Council and local authorities to ensure that the historically slow progress of staff registration is addressed? Will there be a review of the minimum qualification requirements? There has not been such a review for about six years.

- Adam Ingram:

I am in discussions with the Scottish Social Services Council on those matters. The member is quite correct to say that the registration process with regard to residential care staff has been extremely slow. Of 4,000-odd staff, only 1,000 or so have registered, which is a matter of concern. That is why we are moving towards making registration a requirement rather than voluntary. As I mentioned, yesterday I helped to launch new qualifications for residential care staff at a conference that was hosted by the SSSC and I am keen to progress that particular issue. I believe that Garry Coutts, the convener of the SSSC, is in the public gallery to hear the statement. We are committed to the process.

- Dr Richard Simpson (Mid Scotland and Fife) (Lab):

I thank the minister for his statement. I think that the Shaw report is excellent. I have spent a considerable proportion of my psychiatric life in treating patients who have experienced abuse, including abuse that has taken place in a residential setting. It is disappointing that psychiatrists have treated such individuals as personality disordered, and have not accepted that really serious damage has been done to them.

I want the minister to provide the Parliament with absolute clarity about funding. The previous Government provided £1.7 million, which the minister has mentioned already, for the creation of survivorScotland. I want to know whether the new money will be additional money and whether the existing 25 organisations that were supported by the previous Government will continue to be supported, because the fund was originally time limited. Will the new moneys, which will be for advice, counselling and treatment at a national level, be in addition to funding for those organisations?

I see that the Minister for Community Safety, Fergus Ewing, is in the chamber. I ask the Minister for Children and Early Years to consult him on the specific provision of counselling, advice and support for the 70 per cent of offenders in women's prisons who have been abused—that includes childhood abuse—according to research by Dobash and Dobash.

- Adam Ingram:

I acknowledge the member's knowledge and expertise and I guarantee that the funding for the commissioning of the new in-care abuse service will be additional money. It will not be part of the £1.7 million.

As I have said, I am keen to move ahead as quickly as possible. The sub-group finished its work this week and came forward with recommendations. I am keen now to get on with commissioning the service.

On Dr Simpson's final point I will happily consult my colleague, who will then perhaps write to Dr Simpson.

- Des McNulty (Clydebank and Milngavie) (Lab):

Although I do not underestimate the difficulty of gathering evidence and establishing proof in cases that date from before September 1964, that date seems arbitrary. In the Scottish Law

Commission's report, the justification on human rights grounds for not reviving prescribed claims seems to me perverse. Survivors believe that changing the law is the way forward, so how does refusing to give survivors the right to take their cases to court provide resolution? Why are the human rights of the perpetrators placed above the human rights of the victims?

Like Sandra White, I ask the minister to take account of the recent House of Lords ruling in a rape case, in which the time bar was dropped to allow the victim to pursue justice. I ask him to allow the victims of in-care and institutional abuse in Scotland to gain the legal assistance and the legal redress through the courts that they need in order to get resolution for the evil acts that were done to them.

- Adam Ingram:

As I said to the chamber earlier, in Scotland we have taken a different approach to the time bar than in England. There is always judicial discretion in the pursuit of abusers; it is up to the court authorities or the judge to determine whether a case can be brought—taking into account all the possible difficulties in accessing evidence, finding witnesses, and so on. People trying to prosecute a case from 40 or 50 years ago would have to acknowledge that large holes would exist in the evidence. For example, many witnesses will have died.

There is a difference between prescription and time limitation. I am not a lawyer, so I will not go into the difference in detail today. However, I undertake to write to the member to explain how the European convention on human rights relates to these particular matters. It is not just about the abuser or perpetrator; it goes wider than that. The member might not be satisfied with my answer, but I will write to him anyway.

- Aileen Campbell (South of Scotland) (SNP):

The minister talked about survivorScotland and said that the Government was determined to raise public awareness of the existence and impact of all forms of abuse. How will the Government do that?

- Adam Ingram:

As the member may know, survivorScotland has a website, which obviously does the job of raising awareness. The survivorScotland strategy calls for a raising of awareness, and a roadshow is planned for later this year.

- Margaret Curran (Glasgow Baillieston) (Lab):

In light of the minister's response to Des McNulty's question, I ask him to meet me and a constituent of mine who is a survivor of sexual abuse. My constituent will be deeply disappointed that the minister is not moving on the issue of the time bar. What he and other survivors want is justice. I ask the minister to meet him to explain his next course of action.

- Adam Ingram:

I am happy to give that undertaking to the member. However, I point out to her that we are moving forward—in our consideration of a truth and reconciliation model. I hope that such a model would be able to get to the facts of the member's constituent's case and address them publicly. That would surely go a considerable way towards addressing his needs.

- Paul Martin (Glasgow Springburn) (Lab):

As the minister has rightly said, the time bar is controversial. Would it not therefore be fitting for the Parliament to launch a top-to-bottom review, so that we have an opportunity to consider a number of issues surrounding the time bar?

- Adam Ingram:

As I said, the Government has determined how we should move forward. It is time to move on, to address the concerns of survivors and, for the current users of residential care, to learn the lessons—finally—of what has gone on in the past. Of course the Parliament will always have its

scrutiny and accountability function. I welcome that.

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Commercial Forestry

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Question Time

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First Minister's Question Time

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Question Time

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Local Government Finance (Scotland) Order 2008

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Decision Time

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