OFFICIAL REPORT
AITHISG OIFIGEIL

Meeting of the Parliament

Thursday 6 December 2018

Session 5

The Scottish Parliament
Pàrlamaid na h-Alba

Thursday 6 December 2018

CONTENTS

Scottish Parliament

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[The Presiding Officer opened the meeting at 11:40]

General Question Time

Illegal Scallop Dredging

1. **Claudia Beamish (South Scotland) (Lab):** To ask the Scottish Government what further action it will take to stop illegal scallop dredging. (S5O-02659)

The Cabinet Secretary for the Rural Economy (Fergus Ewing): I assure all members that the Scottish Government takes the enforcement of fisheries management and protection of the marine environment seriously. Marine Scotland deploys a wide range of assets to achieve that, including ships, aircraft and officers around the coast to ensure high levels of compliance with fisheries and environmental regulations.

Looking ahead, I am clear that new and innovative technologies being employed on vessels will improve fisheries management and, importantly, protect the marine environment. That is why, at the inshore fisheries conference in Inverness on 5 October, I announced a £1.5 million investment in fishing vessel tracking and monitoring technology.

Claudia Beamish: I hope that the cabinet secretary agrees that incidents in Lochcarron last year and in Gairloch, and another alleged incident in the Firth of Lorn special area of conservation, as reported by the BBC today, are a serious cause for concern. I welcome what the cabinet secretary says about monitoring, but does he agree that we need robust monitoring of the entire scallop dredging fleet, not just the smaller vessels?

Fergus Ewing: I agree that we need to be vigilant and to take seriously—as, indeed, we do—the obligations to manage and protect the marine environment. I understand that vessels over 12m long already have tracking and monitoring technology. The £1.5 million investment is for work to be done in partnership with the fishing industry so that all vessels can be covered by tracking to show where they are and, by monitoring, to show what is taking place on the vessels. That is in everybody's interests, including those of the vessels' owners. Scallop dredgers support 400 jobs at sea and a further 300 full-time-equivalent jobs, which are vital to many rural communities, so it is important that fishing for scallops is sustainable and legal.

I am afraid that I cannot comment on matters that are subject to an investigation, as Claudia Beamish well understands.

New-build Social Housing (Sprinkler Systems)

2. **David Stewart (Highlands and Islands) (Lab):** To ask the Scottish Government whether it will provide an update on its position on legislating to ensure that all new-build social housing has working sprinkler systems installed. (S5O-02660)

The Minister for Local Government, Housing and Planning (Kevin Stewart): The Scottish Government confirmed on 20 June that, during the current parliamentary session, it will take forward David Stewart's proposal for a member's bill requiring new-build social housing to be fitted with automatic fire-suppression systems. Consideration is on-going to scope a legislative timeline for how best to take the bill forward. I have met Mr Stewart to discuss the issue, and I would be happy to meet him again in the coming weeks to update him personally.

David Stewart: The minister will be well aware that, in Scotland, there has never been a case of multiple fire deaths where a working sprinkler has been in place. As the Parliament will know, my member's bill proposal received support from five political parties and nearly 60 members. I also acknowledge the support of the minister in the process. Will legislation be in place so that new social housing will have that crucial safety technology installed by 2021?

Kevin Stewart: I am grateful to David Stewart for his co-operation throughout our discussions. The commitment that I gave him at that time was to ensure that we would have legislation in place so that new-build properties in the social sector beyond 2021 will be fitted with automatic fire-suppression systems. As I said, I am more than happy to meet David Stewart to update him on where we are and how we will deal with that timeline.

Stuart McMillan (Greenock and Inverclyde) (SNP): As the minister will know, sprinkler systems can save lives, and so can defibrillators. Does the minister agree that consideration should be given to having defibrillators in new housing developments at appropriate locations, notwithstanding some of the challenges that will need to be overcome?

The Presiding Officer (Ken Macintosh): Briefly, minister, as the question is on a slightly unrelated topic.

Kevin Stewart: It is, slightly.

The Scottish Government supports all efforts to make defibrillators more accessible. The Scottish Ambulance Service is developing a register of

defibrillators and we encourage people to ensure that defibs are on that register. If Mr McMillan wants to write to me or colleagues about his proposal, I will be happy to look at it.

NHS Borders (Meetings)

3. **Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con):** To ask the Scottish Government when it last met NHS Borders. (S5O-02661)

The Cabinet Secretary for Health and Sport (Jeane Freeman): Ministers and Scottish Government officials regularly meet the leadership of all national health service boards, including NHS Borders. The Minister for Public Health, Sport and Wellbeing chaired NHS Borders's annual review on Friday 16 November.

Rachael Hamilton: As the cabinet secretary will know, NHS Borders was escalated to stage 4 last week. It cannot make enough savings to balance the books, and there is a significant risk to delivery, quality, financial performance and safety as a result. For several years, I have been urging the Scottish National Party to take action to address staff recruitment issues, the cancellation of operations and the failure to meet key targets. Will the cabinet secretary listen to those concerns, and is she confident that NHS Borders will see an improvement?

Jeane Freeman: The board was moved further on the escalation ladder to assist it with its financial planning. When boards are asked to make efficiency savings, they keep that money to contribute to redesign and improvement of services. We need NHS Borders, like other health boards, to look at how it can make best use of the increase in resources that it has received to redesign and improve its services. I am confident that, with that escalation and increased support from the Scottish Government, NHS Borders will produce a workable financial plan, which is what we need it to do, that it will make best use of the increased resources that we have given it—which we give to other boards—and that it will successfully make further use of the waiting times improvement plan, which has already begun to see action being taken across our health service.

Illegal Puppy Trade

4. **Emma Harper (South Scotland) (SNP):** To ask the Scottish Government whether it will provide an update on its work to tackle the illegal puppy trade. (S5O-02662)

The Minister for Rural Affairs and the Natural Environment (Mairi Gougeon): Under a commitment in our programme for government, we are currently investing £300,000 to work with charities and enforcement agencies on a communications campaign on the risks of buying puppies that are advertised online and on rehoming dogs that have been supplied from abroad. I reinforce that message, which is pretty much, "If there is no mum and no paperwork, walk away." Cinema and media advertisements will run until 8 December 2018, and the effectiveness of the campaign in reducing public demand for illegally traded puppies will then be evaluated. I thank Emma Harper for all the work that she has done on the issue, which she has continued to raise, highlight and campaign on.

Emma Harper: I am pleased to hear the minister acknowledge my work on tackling the illegal puppy trade over the past two years. Has the Scottish Government carried out any assessment of the impact of Brexit on the illegal puppy trade, particularly through the port of Cairnryan in my South Scotland region?

Mairi Gougeon: As all members across the chamber will be acutely aware, Brexit is potentially only a few months away and there is still much uncertainty as to what that is going to mean right across our society and in different businesses and organisations including our ports. However, I can say that the Scottish Government will continue to be vigilant when it comes to any illegal activity, including the illegal puppy trade, and we will continue in all our work and efforts to tackle that trade.

Finlay Carson (Galloway and West Dumfries) (Con): There is an ever-increasing awareness of the link between puppy farming and organised crime. Instead of having £20,000-worth of drugs in their van, a criminal today may have £20,000-worth of puppies. A drug seizure of that kind could result in a lengthy jail sentence, but a puppy seizure would not. Will the minister advise whether the Government plans to increase the length of jail sentences and/or expedite court hearings in cases of animal welfare, particularly in instances of puppy breeding and smuggling?

Mairi Gougeon: A number of measures were announced as part of the programme for government this year, and I confirm that such measures will be actively considered.

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): The minister will be aware that my consultation on responsible dog ownership for the proposed responsible breeding and ownership of dogs (Scotland) bill has concluded. Will the minister meet me to discuss how the proposed bill may curtail the cruel activities of puppy factory farms?

Mairi Gougeon: Absolutely, and I am more than happy to meet the member to discuss the proposed bill.

General Practitioner Practices (Occupational Therapists)

5. **Margaret Mitchell (Central Scotland) (Con):** To ask the Scottish Government, further to the pilots at Burnbank and Newarthill GP practices, whether it plans to promote greater use of occupational therapists within other GP practices to improve earlier intervention and preventative care. (S5O-02663)

The Cabinet Secretary for Health and Sport (Jeane Freeman): A critical element of the new GP contract is the requirement for a shift in the way that primary care services are delivered through enhanced and expanded multidisciplinary care teams, which are made up of a variety of professionals who each contribute their unique skills to the delivery of person-centred care and improving outcomes for individuals and local communities. There is no defined structure for a multidisciplinary team, but a significant degree of flexibility is encouraged to ensure that the services that are provided meet local needs. That is central to the work of health and social care partnerships.

Margaret Mitchell: Is the cabinet secretary aware that the Lanarkshire GPs' pilot deployment of occupational therapists in primary care has reduced GP visits by up to 72 per cent and has resulted in patients who have mental health issues being seen by the occupational therapist immediately, with more severe cases being referred to the appropriate service? In view of that result, does the Scottish Government have plans to promote the recruitment of more occupational therapists?

Jeane Freeman: I am aware of the success of the initiative in Lanarkshire. The idea of cluster-based GP practices working together to encourage the spread of good practice across the work that they undertake forms part of the GP contracts. The work will be tailored to identify the measures that are best suited to meeting the needs of the local population. In some instances, that will involve increasing physiotherapy. In all GP practices, it will involve pharmacology, and we have already recruited to ensure that 50 per cent of our GP practices have access to that service. The work that is carried out will inform what we need to do for the purpose of workforce planning. We have taken steps in relation to physiotherapy training, pharmacist training and occupational therapists. We will continue to review what emerges from the identification of local need and demand, in order to ensure that our workforce planning can match that as well as possible.

Highlands and Islands Airports Ltd (Meetings)

6. **John Finnie (Highlands and Islands) (Green):** To ask the Scottish Government when it last met Highlands and Islands Airports Ltd and what was discussed. (S5O-02664)

The Cabinet Secretary for Transport, Infrastructure and Connectivity (Michael Matheson): The Minister for Energy, Connectivity and the Islands met the interim chair and managing director of Highlands and Islands Airports Ltd on 27 November 2018. They discussed a number of issues, including HIAL's "Air Traffic Management 2030 Strategy" and HIAL's wider strategy work.

John Finnie: Inverness airport has received a very poor environmental compliance rating from the Scottish Environment Protection Agency for four years in a row. Air traffic controllers may be about to strike over pay and plans to centralise air traffic control operations. HIAL has repeatedly failed to consult remote, rural and island communities, which it is supposed to serve on ministers' behalf, on important issues, including the introduction of parking charges. What action is the cabinet secretary taking to ensure that HIAL lives up to its obligations, and does he have full confidence in the ability of HIAL's management team?

Michael Matheson: The member has raised a number of different issues. I am aware that HIAL is trying to take action in relation to the environmental impact issues at Inverness airport. One of those issues is the need for better rail links to the airport, which we are looking to make progress on in control period 6 of the rail investment programme.

On potential industrial action by staff, the member will be aware that HIAL is taking forward a programme of work to modernise the air traffic control system to reflect the increasingly complex regulatory structure in which HIAL operates. HIAL will continue to engage with the trade unions and staff in the service in order to take those plans forward constructively to ensure that the air traffic control system that it operates across all its airports is fit for purpose in the new regulatory regime.

The Presiding Officer: There are three supplementary questions.

Tavish Scott (Shetland Islands) (LD): The cabinet secretary will be aware that Highlands and Islands Airports Ltd introduced car-parking charges at Sumburgh airport on Saturday without any consultation, impact assessment or, indeed, reference to the Islands (Scotland) Act 2018. Can he explain what public transport links exist between Sumburgh and Lerwick, which is 25 miles away, and what links will be introduced following that car-parking measure?

Michael Matheson: HIAL has a responsibility to ensure that it can balance its budget and it must

look at opportunities to do that, which is part of the reason why the car-parking charges were introduced. We have encouraged, and will continue to encourage, HIAL to engage with the local authority to look at how it can improve public transport links to the airport.

Rhoda Grant (Highlands and Islands) (Lab): Centralising air traffic control is damaging to both the workers and the local economy. Surely the technology could be used to provide resilience in HIAL's airports, rather than centralising the jobs in Inverness. If the service can be provided in Inverness for islands such as Benbecula, surely it can be provided in Benbecula for Inverness. Has the policy of centralising air traffic control been island proofed? Has an economic impact assessment been done? Will the cabinet secretary reverse that damaging decision?

Michael Matheson: Highlands and Islands Airports Ltd has to meet the increasingly regulatory nature of air traffic control, and it must look at the challenges that that creates to ensure that it can meet the necessary safety standards at all its airports on our islands and the mainland. That is why it needs to invest in the right technology to deliver the service within the new regulatory regime that it will face. The plan is at an early stage and HIAL will continue to engage with all parties with an interest in the matter. However, as I am sure that the member will recognise, it is important that HIAL's air traffic control system is safe and fit for purpose and that it meets the needs of the new regulatory regime that is being applied to air traffic control.

Jamie Halcro Johnston (Highlands and Islands) (Con): The cabinet secretary will perhaps be aware that, due to the range of discounts and differential charges that exist, airport charges are occasionally higher for flights to the islands. Indeed, at airports such as Inverness airport, it can be the case that the island flights are the only ones that pay the full charge. Does the cabinet secretary believe that that is fair? What assessment has his Government made of the impact of those higher charges on fares to our islands?

Michael Matheson: We provide a range of discount provisions in the domestic flight network in Scotland because we recognise the lifeline nature of some airport links. We are reviewing some aspects of that, but we intend to continue to prioritise those areas where there is a need for discounts to be provided for lifeline services.

Litter (West Scotland)

7. **Mary Fee (West Scotland) (Lab):** To ask the Scottish Government how it will fund local authorities in the West Scotland region to help ensure that communities are kept clean and tidy. (S5O-02665)

The Minister for Public Finance and Digital Economy (Kate Forbes): Under section 89 of the Environmental Protection Act 1990, local authorities have a duty to keep roads clean and land within their authority clear of litter. That is funded as part of the 2018-19 local government finance settlement of £10.7 billion. It is then for local authorities to decide their own spending priorities, taking account of their statutory obligations.

Mary Fee: Between 2007 and 2011, when the Cabinet Secretary for Finance, Economy and Fair Work was leader of Renfrewshire Council, he cut more than 300 staff in environmental services. From 2011 until March this year, an additional 80 members of staff who cleaned the communities of Renfrewshire were axed. Does the minister agree that if those cuts of around one in six staff had not been made, it would not be down to volunteers, who selflessly give up their time, to clean up after Scottish National Party cuts?

Kate Forbes: This year, the Scottish Government has protected local government budgets by reversing the real-terms reductions to Scotland's resource budget and by providing a real-terms increase in both capital and revenue funding for local government. I imagine that the leader of Renfrewshire Council had a long and difficult job in cleaning up the previous administration's mess.

The Scottish Government does not just leave it up to local government to tackle littering. We have published our litter-free Scotland strategy, which is a five-year plan for how to reduce litter. We have other policies, such as the introduction of charging for single-use carrier bags—plastic bags are a highly visible form of litter—to support local authorities to deal with the blight of littering.

First Minister's Question Time

12:00

Business Rates

1. **Jackson Carlaw (Eastwood) (Con):** In his October budget, the Chancellor of the Exchequer slashed business rates for thousands of small shops, pubs and high street stores. Business rates are devolved to Scotland, so those reductions do not automatically apply here. Thanks to the Barnett formula, the Scottish National Party Government will receive £42 million as a result of the chancellor's decision. Ahead of the Scottish budget next week, will the First Minister confirm that small firms in Scotland will feel the full benefit of that funding?

The First Minister (Nicola Sturgeon): The Cabinet Secretary for Finance, Economy and Fair Work will set out the full budget to Parliament next week and our proposals on business rates will be part of that budget.

I hope that the following information will be of interest to Jackson Carlaw and other members. The Scottish Government currently offers the most generous package of business rates relief in the United Kingdom. It is currently worth £720 million a year, which is up from £660 million in 2017-18. The average value of relief received by businesses in Scotland this year is more than £4,500. The comparable figure for England is less than £4,000. Finally, even after the announcement in the chancellor's budget, average relief in England will still be lower than in Scotland, and that is before the Scottish Government's budget for next year.

I am not sure that this will be Jackson Carlaw's most productive line of questioning, but I hope that I have been helpful in providing that information.

Jackson Carlaw: In response to the answer that the First Minister has just given, I say that business leaders in her Glasgow constituency have described rate bills as "crippling" and have warned her that 20,000 jobs are at risk in the hospitality industry alone.

Let me focus on just one business. The owners of the Capercaillie, a restaurant and bed and breakfast in Killin, contacted us this week. They need support and they need it now. They are not eligible to receive the Scottish Government's small business bonus and have been told that their current business rates of £333 per month could rise to as much as £1,750 a month next year, which is an increase of more than £17,000 per year. The business employs 16 local people and is now under threat and being put up for sale because of that devastating rise in rates.

How does the First Minister expect small businesses across Scotland that are faced with those increases to survive?

The First Minister: I think that the situation that Jackson Carlaw describes is a result of the revaluation process, rather than a result of policy decisions that have been taken by the Scottish Government. As Jackson Carlaw should be aware, the revaluation process is independent of the Scottish Government. We have placed caps on increases for business in the hospitality industry, which was widely welcomed. I am sure that the finance secretary will have something to say about that when he sets out his budget next week.

None of that takes away from the fact that when we go back to the Scottish Government policy decisions, we see that the rates relief that we provide to businesses in Scotland is worth more, on average, than the comparable rates in England. We have the most generous package of relief in the UK, which, as I said, is worth £720 million. The small business bonus scheme has provided record relief to almost 120,000 businesses across Scotland this year and has lifted more than 100,000 recipients out of rates altogether, and the total relief under the small business bonus scheme has risen to £254 million. We provide a fair deal to Scottish businesses.

The budget for next year will be set out next week. As with any tax issue, if the Scottish Conservatives want us to cut taxes in the budget, it is incumbent on them to tell us from what public service they want us to take the money. Perhaps Jackson Carlaw would like to have a go at answering that question.

Jackson Carlaw: It is clear that the First Minister will not have impressed business leaders in her constituency with that response; she will not have impressed the business that is to close and is up for sale in Killin, either.

We see the impact of high non-domestic rates on firms and businesses, but what about the impact of higher domestic rates on households across Scotland? We all know that, next week, SNP members will again flutter their eyelashes at the Greens to get them over the line—and we all know that the Greens will do that. However, we also know the price of that, which Patrick Harvie has spelled out—it is a brand-new tax on households across Scotland. Will the First Minister make it clear today that there will be no new tax on the homes of hard-pressed ordinary Scots?

The First Minister: At the risk of repetition, I say that the Cabinet Secretary for Finance, Economy and Fair Work will set out the budget to Parliament next week, when we will see clearly that not just businesses but taxpayers across

Scotland will continue to get a fair deal from the Scottish Government.

For many years, the Government froze council tax levels in Scotland. There is now a cap this year on council tax increases of 3 per cent, which is much lower than the maximum allowable increases in England under the Conservative Government. Average council tax bills in Scotland are also lower than those in England. Given that, perhaps Jackson Carlaw would do better to lecture his colleagues in the Westminster Government rather than this Government.

I come back to a central point, which Jackson Carlaw sidestepped in his previous question. If we had followed the Scottish Conservatives' advice to us on tax when we set this year's budget, we would now have £550 million less to invest in our national health service, the education system and local government services. The Tories never said where that money should come from. If they are standing here today, just under a week before the budget, asking for tax cuts, will Jackson Carlaw use his one opportunity that is left to tell us which public service we should raid to fund such cuts? If he does not do that, people all over Scotland will draw their own conclusions.

Jackson Carlaw: I will tell the First Minister where the money comes from—it comes from businesses such as the one in Killin that will close down as a result of her crass indifference.

Yesterday, in an interview with the *Financial Times*, Derek Mackay declared—ominously—that he wanted to set "tolerable levels" of tax in next week's budget. He sensed that he could squeeze people more; I sense a shudder down the spine of taxpayers everywhere. Tracy Black, who is the director of the Confederation of British Industry Scotland, said:

"One-off tax raids may look appealing but there's only so many times you can raid the cookie jar."

The First Minister's budget is going up—she has the money to spend. The fact is that no further tax rises are necessary and the Scottish Government has the cash. Is it not the right choice this year to commit to no further increases for Scottish taxpayers?

The First Minister: In yesterday's *Financial Times*, Derek Mackay said that the decisions that we have taken on tax policy do not risk a reduction in revenue. When he was asked directly whether Scotland was some way from that, he said, "That is my sense." How Jackson Carlaw can translate that into squeezing people with more taxes is beyond me, but I presume that he can explain that.

I will get back to the fundamentals. If we had followed Tory tax suggestions for this year's budget, we would have £550 million less to invest in public services. If we followed what Jackson Carlaw appears to suggest for next year's budget, hundreds of millions of pounds more would be removed. He has not yet said where we should take that money from—is it the national health service, front-line local government budgets or the education budget? We do not know, because the Tories refuse to tell us.

The last point is that it seems as if Jackson Carlaw is taking a different approach to that of his leader, Ruth Davidson. In May this year, she said:

"If that choice is between extra spending on the NHS or introducing further tax breaks ... I choose the NHS."

Perhaps Jackson Carlaw needs to clarify. Does he have a different opinion from Ruth Davidson or is he changing the Tory position? The Tories come to this chamber week in and week out and call for extra spending on this service and that service, and then in the same breath they call for tax cuts. The Tory tax policy and the Tory spending policies are not credible, but then, we are in a position where the Tories generally are no longer credible.

Additional Support Needs Teachers

2. **Richard Leonard (Central Scotland) (Lab):** Can the First Minister tell the chamber whether, since she came into office, the number of specialist teachers who support children with additional support needs in Scotland's schools is up or down?

The First Minister (Nicola Sturgeon): I do not have that figure to hand. What I do know, and can tell Richard Leonard, is that in the last two years we have seen increases in the numbers of teachers working in Scotland's education system. Next week, we will publish this year's figures for the number of teachers in Scotland's education system and Richard Leonard will be able to look carefully at them. There are more teachers working in education and delivering an excellent education system for Scotland's young people and I welcome that.

Richard Leonard: What the First Minister did not say was that the number of specialist teachers who support children with ASN in Scotland's schools is down—in fact, there are 122 fewer, under Nicola Sturgeon. At the same time, the number of pupils who have been identified as having additional support needs has gone up by over 40,000. Need is up by over 30 per cent, but the number of qualified teachers is down by over 6 per cent.

Yesterday, I spoke to the mother of a 13-year-old boy called Callum. Callum has low-functioning autism. He struggled last year with his move to high school. He was placed in a department of additional support. Callum's family believes that

the teacher in charge of his class did not have the appropriate training for it and therefore did not make the right decisions for Callum, his schedule, his work or his environment. His mother told me that:

"This resulted in Callum going into meltdown on a daily basis ... the teacher would shout and things would escalate further. Callum would be manhandled to a soft room; the door would be closed on Callum, which again escalated his anxiety."

First Minister, can you tell Callum's family why the number of specialist teachers has been cut under your Government?

The First Minister: I thank Richard Leonard for raising Callum's case. The Deputy First Minister and Cabinet Secretary for Education and Skills would be happy to talk to Callum's family, to understand his experience and to consider the implications of that for the decisions that the Scottish Government takes.

I will come back to the central question that Richard Leonard asked me about the numbers of qualified people working with young people with additional support for learning needs. The staff who support pupils with ASN includes teachers, educational psychologists, behaviour support staff and home-school link workers—the type of staff who are so vital in ensuring that young people with ASN have a good educational experience. Richard Leonard asked me about numbers since I became First Minister. In the year 2014, there were 15,871 staff supporting pupils with ASN. In 2017, the most recent year for which we have figures, the number was 16,600. Therefore, the overall number of staff supporting pupils with additional support needs has increased. I think that that is important. We always want to do more. We want to understand the experience of young people like Callum, which is why the Deputy First Minister would be very happy, if Richard Leonard wants to pass on the details, to speak with that young man's family.

Richard Leonard: Callum is only 13 once, so we need to get this right. There are children just like him across Scotland. What they need are qualified teachers; that has been identified in report after report. They cannot wait. They need action now. Week after week, the First Minister claims in Parliament that education is her top priority and, week after week, people in the real world—teachers and parents—get in touch with me to tell me about the impact of her cuts. That is why the budget that is presented to Parliament next week must guarantee no more cuts to schools, no more cuts to teachers and no more cuts to additional support for pupils. Will the First Minister give that guarantee?

The First Minister: I have already spoken about the increase in the number of staff who support pupils with additional support needs. In addition, as I said a moment ago, the overall number of teachers in our classrooms is increasing. That has been the case for two years in a row, and the most recent figures will be published next week. On top of that, education authorities have increased the funding for additional support needs. The local government financial statistics for 2016-17 showed that local authorities increased the funding for education. Of that, £610 million went on additional support for learning, the spending on which was £584 million in the previous year. That was a 2.3 per cent increase in real terms.

In addition—this is an important point—achievement in schools for pupils with additional support needs continues to rise. Despite their challenging circumstances, children and young people continue to achieve. More than 87 per cent of school leavers with additional support needs have a positive destination, which is an increase of five percentage points since 2011.

All that information is important, but that does not take away from experiences such as that of young Callum, which Richard Leonard narrated. That is why I repeat the offer that the Deputy First Minister would be very happy to speak to Callum's family to understand that experience in more detail. We will continue to support local authorities to take the right decisions to provide the support for learning that such young people need and deserve.

The Presiding Officer (Ken Macintosh): We have a number of constituency supplementaries.

Michelin Factory (Update)

Shona Robison (Dundee City East) (SNP): Can the First Minister provide an update to Parliament on the work of the Michelin action group, including the new joint agreement with Michelin, and on what the next steps forward are to maximise employment opportunities on the Michelin site in Dundee?

The First Minister (Nicola Sturgeon): Derek Mackay convened a very productive third meeting of the Michelin Dundee action group last Friday. Michelin will work in partnership with the Scottish Government, Scottish Enterprise, Dundee City Council and others to develop the next phase of the company's presence in Scotland. Our shared aim now is to secure a long-term future for the site and to generate significant employment there. We will work together to transform the site into a key location for new economic employment opportunities in manufacturing, remanufacturing, recycling and low-carbon transport, and we will ensure that the workforce is fully supported to benefit from those new opportunities.

Michelin will sign a memorandum of understanding with the Scottish Government to deliver on those commitments; we are looking to sign that before the end of this year. Derek Mackay will keep the chamber, including local members such as Shona Robison, fully updated on progress. I again thank Shona Robison and others for the very constructive role that they have played in reaching the point that we are now at.

Edinburgh Fire Station Closure

Gordon Lindhurst (Lothian) (Con): The First Minister may be aware of an alarming situation that arose at the weekend when a fire station in Edinburgh was forced to close due to a lack of available firefighters, while two appliances at two other stations were also stood down.

A representative of the Fire Brigades Union has said that firefighters are

"embarrassed at what this service has been reduced to",

against a background in which there are 500 fewer firefighters in Scotland since the regional brigades were centralised.

Is the First Minister concerned about the safety implications of those shortages? Will she commit to fully supporting the fire service?

The First Minister (Nicola Sturgeon): We fully support the fire service and we will continue to do so. In the budget for this year, the Scottish Government increased the spending capacity of the fire service by £15.5 million. We will continue to support the funding of the fire service, and we will continue to support it in its efforts to transform the way in which it delivers services.

I think that the member is asking me about the closure of the Marionville fire station. That station was closed on Saturday 1 December. Of course, the fire service maintains a service to allow it to respond to every emergency call, and it is fully committed to addressing any crewing challenges, wherever they occur.

Fire appliances can be safely deployed only if a full crew is available. There are instances where appliances are off the run if crew levels fall short. That might be as a result of, for example, unplanned absence such as sick leave, or planned activities such as crew training in specialist activities.

The strength of a national service is that it allows the mobilisation of appliances and personnel from other stations across the area or further afield if required. It is worth looking at what Her Majesty's fire service Inspectorate said, which was that the Scottish Fire and Rescue Service is

"operationally effective and more equipped to deal with major incidents ... than the previous legacy services."

We are never complacent about the number of fire officers, and we will continue to support the fire service. The number of firefighters per head of population is higher in Scotland than in other parts of the United Kingdom. In Scotland, there are 11.8 firefighters per 10,000 population. In England, that figure is just 6.3. We will continue to ensure fair funding for our firefighters and to do everything that we can to support them in doing the excellent job that they do to keep us safe.

Social Care (Edinburgh)

Kezia Dugdale (Lothian) (Lab): This week, the Care Inspectorate produced a progress report into services for older people in Edinburgh, following its damning report 18 months ago. Its findings are stark and deeply distressing—the city is failing hundreds of its most vulnerable residents. When NHS Lothian repeatedly failed to improve its performance, the Government sent in a task force. Is it not time that the Government sent in a task force to fix Edinburgh's social care crisis?

The First Minister (Nicola Sturgeon): I expect all recommendations or observations of the Care Inspectorate to be heeded by health boards and indeed by integration joint boards. It is absolutely essential that NHS Lothian does that in relation to older people. The Cabinet Secretary for Health and Sport will have regular discussions with the health board about that. I will ask her to correspond with the member to update her on those discussions and to take forward any further concerns that the member has.

Energy Supplies (Disconnection)

Bob Doris (Glasgow Maryhill and Springburn) (SNP): A number of my constituents in the Wyndford estate have been disconnected from their community hot water and heating supply by Scottish and Southern Energy. That has happened for various reasons, but several people are struggling with debt and bills. One constituent, a lone parent, has been staying with friends because her house is so cold. She has offered £600 towards clearing her debts, but SSE has previously insisted that she clears 50 per cent of her debts, alongside a £272 reconnection charge. After some pushing, SSE might—might—now show some flexibility about reconnecting her.

As we enter the Christmas period, will the First Minister urge SSE and other providers to be as flexible as possible, to show some compassion and to do what they can to help, not punish, those who are struggling to heat their homes?

The First Minister (Nicola Sturgeon): I thank Bob Doris for raising an important issue. I am always very concerned to hear of any disconnections, especially at this time of year, when temperatures are low.

The Government will always prioritise tackling fuel poverty, and we offer assistance to households through our funding for home energy Scotland. The Scottish Government is also preparing to bring forward regulations for heat networks in Scotland. We have had positive discussions with the UK Government to consider how provisions in reserved areas, such as consumer protection, can be implemented in Scotland.

In response to Bob Doris's specific question, I would call upon SSE and all energy suppliers to be as flexible as possible and fair and compassionate in dealing with any customers who are struggling to pay their fuel bills. The most important priority for any of us should be to ensure that people have heat and are warm during the winter.

Landfill Tax

Margaret Mitchell (Central Scotland) (Con): Is the First Minister aware that companies in the waste management sector, such as Patersons of Greenoakhill Ltd in Coatbridge, which have complied meticulously with the provisions relating to the landfill tax since it was devolved to Revenue Scotland in 2015, now face retrospective tax of £1.2 million and penalties of £700,000 for regulations that were not confirmed until 2016? Does she consider that acceptable?

The First Minister (Nicola Sturgeon): I do not have all the details of that issue in front of me, but if Margaret Mitchell wants to send me more details, I will have the relevant minister look into that and correspond with her as soon as possible. I give her an assurance and an undertaking today that we will look at that as quickly as it is feasible to do.

Climate Change

3. **Patrick Harvie (Glasgow) (Green):** I am pleased that the First Minister chose to go to Poland this week for the global climate change conference. As I raise this issue, I have no doubt that she will again seek praise for the progress that has been made and complain that the Greens should stop demanding more action.

Scotland has indeed made a decent start, and we are ahead of the pack. However, as global emissions reach yet another all-time high, being ahead of such a complacent pack is no great claim. In the new year, the Parliament will debate the new Climate Change (Emissions Reduction Targets) (Scotland) Bill, which sets no date for a full net zero greenhouse gas emissions target, proposes no increased urgency in the critical period over the coming decade and does not commit to the radical new actions that are needed to achieve that progress.

For the Greens, the case is clear. The bill must be upgraded to a climate emergency bill, with net zero by 2040, emissions cuts of more than three quarters by 2030 and a radical new programme of action to be rolled out within a year. If the Government does not back a real climate emergency bill, how will the First Minister, who believes in the principle of climate justice, respond not just to me but to the Pan African Climate Justice Alliance, which has challenged her to accept that her current bill does not go far enough?

The First Minister (Nicola Sturgeon): I thank Patrick Harvie for raising this issue. It is, as David Attenborough said so eloquently in Poland earlier this week, the biggest issue faced by the world and the whole of humanity. I do not criticise the Greens for challenging us to go further; it is right that they do so. Every single day, we challenge ourselves to go further and, indeed, to go as far as we possibly can as fast as we possibly can.

When I was in Poland earlier this week—the environment secretary will be there early next week—I was struck again by the fact that experts from many other countries and the United Nations, who are not susceptible to Government spin on this issue and know exactly what we are doing in Scotland, think that we are leading the world and acting in line with the Paris commitments.

Earlier this year, Laurent Fabius described the Climate Change (Emissions Reduction Targets) (Scotland) Bill as a

"concrete application of the Paris Agreement".

That praise is based not just on the headlines of the targets in the bill, which are carbon neutrality by 2050 and obligations on us to get to net zero for all greenhouse gas emissions as quickly as we feasibly can, but on the more rigorous approach that we are taking to meeting those targets. We are the only country in the world with annual statutory targets and one of the few countries to include aviation and shipping and, of course, there is our emphasis on domestic effort instead of international credits.

However, we want to go further and we are anxious to do so. That is why we have asked the United Kingdom Committee on Climate Change to provide updated advice before Parliament votes on the bill. That advice, which will be on not just the long-term targets but the nearer-term targets, will be available to all members. It is right that we continue to debate this and to challenge ourselves and each other, but nobody—absolutely nobody—should doubt Scotland's ambition and commitment to continuing to be a world leader on this most serious of moral obligations.

Patrick Harvie: The First Minister was indeed present when David Attenborough warned that

"the collapse of our civilisations and the extinction of much of the natural world is on the horizon."

I believe that she takes that warning seriously. She also says that Scotland gets praise for the actions that it is taking; I, too, give that praise. I say again that Scotland has made a decent start.

However, we need to join the dots between the warnings about the need for increased urgency in response to this emergency and the actions that are being taken, because we are not yet close to where we need to be. The science is clear that the critical period for progress is the next 12 years, but the Government's bill proposes no change to the existing targets in that period. There is a growing awareness that what we are doing to our world threatens all our futures, and that changing light bulbs and even cars will not cut it; we need to change our whole economy.

The fossil-fuel age must be allowed to die, but the Scottish Government is still handing tens of millions of pounds to the oil and gas industry. This week, while the First Minister was still in Poland for the climate change conference, her colleagues at Westminster were arguing the case for yet another Tory tax break for the fossil-fuel industry, handing tens of billions of pounds over the coming decades to the giant businesses that are lining their own pockets while causing this crisis. Is it not clear that we need a stronger bill on climate change—a climate emergency bill, as the Greens propose—to accelerate our progress, to end the handouts to the climate criminals and to show the urgency that so many people understand is needed?

The First Minister: I do not criticise anybody's passion on this issue. I share that passion, that concern and that ambition for Scotland to do the right thing.

As First Minister I have a responsibility and a duty, which I share with the Cabinet Secretary for Environment, Climate Change and Land Reform, to be ambitious in our targets, but we also have a duty to ensure that we have credible plans in place to meet those targets, and we take that work seriously.

The other point, which is relevant to the oil and gas point that Patrick Harvie raised—I understand why he did so—is that of a just transition. One of the things that Scotland was praised for in Poland earlier this week was the establishment of the just transition commission. We want to learn from previous economic disruptions and transitions that have left behind the most vulnerable in our society so that, as we lead the world in the transition into a carbon-neutral future, we do so in a way that does not risk people's jobs, which ensures that they transfer into other jobs and which has the justice of that transition very much at its heart.

These are important issues. I was not actually present when David Attenborough spoke, but I have no hesitation in agreeing with his view that this is the biggest issue that we face. We might all be consumed by Brexit at the moment, but the issue that we are talking about is the biggest issue that the planet faces, and all of us must live up to that moral responsibility. I am determined that the Scottish Government will do so. However, we will do so in a meaningful way so that, when we set targets, we are confident that we have the plans in place to meet them. I suspect that we will have a robust debate in the chamber about the new bill, and I welcome that, because I think that those discussions will mean that, at the end of the process, we will end up with a bill that is right and which the whole Parliament can take pride in uniting behind.

The Presiding Officer (Ken Macintosh): I encourage members, and the First Minister, to ask slightly shorter questions and give slightly more succinct answers.

Brexit

4. **Willie Rennie (North East Fife) (LD):** I was pleased that, yesterday, four parties in this Parliament put aside their differences in order to oppose Brexit. I was also pleased that this Parliament has backed the people's vote. The Prime Minister's deal faces certain defeat next week and I have never felt more confident that we can stop Brexit. Therefore, I was disappointed last night to see the Scottish National Party leader in Westminster arguing for the Irish backstop to be extended to Scotland—that is the discredited Irish backstop from Theresa May's discredited Brexit deal. Can the First Minister assure me that that is not the policy of the Scottish Government?

The First Minister (Nicola Sturgeon): Yet again, I will try in very simple terms to explain to Willie Rennie the Brexit position of the Scottish Government and the SNP. I say this more in sorrow than in anger, given that Willie Rennie and I agree on the issue of Brexit, but it is regrettable that he keeps trying to find points of disagreement when it would be more powerful for us just to come together and unequivocally agree.

Like Willie Rennie, I would prefer that Brexit does not happen. I want Scotland and the United Kingdom to stay in the European Union. The only difference between us is that, if the rest of the UK decides to go ahead and leave the EU, I think that Scotland should still have the right not to be dragged out of the EU against our will, which, of course, is a right that we would have if we were an independent country.

However, with the responsibilities of Government that I have, I must also contemplate how we protect Scotland if the UK leaves the EU

and drags Scotland out with it. That is why I have always said that, in those circumstances, if we are in the realms of looking for the least worst options, staying in the single market and customs union falls into that category. I have argued that case consistently for two years. That does not take away from the fact that I would much rather that the whole of the UK stayed in the European Union.

We know why the Irish backstop is in place. I hope that that backstop is not activated because, like Willie Rennie, I hope that we now have an opportunity to reverse Brexit. However, if it is activated, the worst possible situation for Scotland to be in would be for us to be at a competitive disadvantage with Northern Ireland. That is why we need to have at least the same relationship with the single market and customs union that Northern Ireland is going to have.

Anybody in any doubt about that only had to listen to the Secretary of State for Northern Ireland in Belfast at the end of last week, saying that the Prime Minister's Brexit deal gave Northern Ireland—I think that I am directly quoting her here—an "unrivalled" advantage in attracting foreign direct investment. That is the risk to Scotland in a nutshell. To summarise—I know that I am taking too long, Presiding Officer—we want to stay in the EU but, if that cannot be achieved, we want to see solutions that do the least damage to Scotland. Surely Willie Rennie can agree with that.

Willie Rennie: The First Minister might want to try to explain all that to her Westminster leader. She should not try to ride both horses. We have the Conservatives on the run—even the Tories do not agree with the Tories in this chamber. We should not be hunting for a compromise that has already been discredited.

Every kind of Brexit will damage the economy. That is why we should be opposing every kind of Brexit. I am frustrated that I need to keep raising this issue with the First Minister. I know that she wants to be reasonable, but how is it possible to be reasonable when it puts jobs at risk? I plead with the First Minister to reject all and every kind of Brexit.

The First Minister: Again, I say that I oppose all and every kind of Brexit. I do not want Brexit to happen; I want Scotland and the whole of the UK to stay in the EU. Where I would agree with Willie Rennie is that I think that there is a greater prospect of achieving that aim now than there has appeared to be at any other time over the past two and a half years, which is why the SNP will do everything that it can to bring that about. However, Willie Rennie describes me as riding both horses but—do you know what?—when you are First Minister, you work out how to protect Scotland's best interests in all possible circumstances. If we cannot keep the UK in the EU, I have an obligation—which I accept that Willie Rennie does not have—to look at what will then best protect Scotland's interests. If he cannot see that, that is perhaps a very good reason why everybody hopes that he will never be standing here as First Minister.

Finally, it surely cannot escape Willie Rennie's notice that the only reason why we are standing here at all having these discussions is that Scotland finds itself possibly being taken out of the EU against its will. That would not be possible if Scotland were an independent country. Whatever the outcome of this Brexit process—and we both hope that it ends with us staying in the EU—if Willie Rennie wants to make sure that Scotland never faces this prospect again, the sooner he backs independence for Scotland, the better.

The Presiding Officer: There are still a number of supplementaries. We are probably not going to get through very many, but we will try.

Real Living Wage (Prestwick Airport)

James Kelly (Glasgow) (Lab): On Saturday, The Herald reported that Glasgow Prestwick Airport Ltd was advertising posts that were paid less than the real living wage—at £7.83 an hour, significantly less than the £9 rate of the real living wage. That is unacceptable given that the airport is owned by the Government and the First Minister and her ministers are always willing to talk up their so-called support for the real living wage. Will the First Minister therefore ensure that that advert is withdrawn and that the posts are readvertised at a rate of at least £9 an hour—the real living wage?

The First Minister (Nicola Sturgeon): The Scottish Government fully supports the policy of the real living wage and we expect and encourage all employers to pay it. Of course, Prestwick Airport is run at arm's length from the Scottish Government but, as I understand it—and I will have the transport secretary write to the member with more detail on this—Prestwick Airport is committed to the real living wage and is working towards having it paid to all those who work at the airport. The sooner it gets there, the better. We encourage all employers, without exception, to pay that rate to their workers because it is a core part of the fair work agenda to which we should all be committed and to which this Government is committed.

Universal Credit

Bruce Crawford (Stirling) (SNP): As highlighted in the Daily Record this morning, universal credit's minimum five-week waiting period for payments means that anyone making a claim this week will need to survive until January without the money that they need to live and to which they are entitled. Will the First Minister write

urgently to the Department for Work and Pensions asking it to ensure that hardship payments are made available to everyone at the point of claiming? This utterly disgraceful situation has to be sorted out.

The First Minister (Nicola Sturgeon): I am grateful to Bruce Crawford for raising this very important issue. It is disgraceful that a family applying this week for universal credit—by definition, a family that is probably already struggling to make ends meet—will have to wait until after the Christmas period before they get the money to which they are entitled. How the Tories sleep at night knowing that is beyond me. That five-week waiting time is unacceptable at the best of times, but at this time of year it is particularly unacceptable.

I saw the Prime Minister at Prime Minister's questions yesterday trying to suggest that there is not a five-week waiting time. I suggest that she gets out and about and speaks to more people applying for universal credit than she clearly has, because people in the real world know exactly what the situation is.

In response to Bruce Crawford's question, I say that, yes, we will write to the DWP making that point, but we write to the DWP repeatedly on these matters and it does not listen. I will make a point that I have made many times before: the sooner we are in a situation where we do not have to write to the DWP asking it to do the right thing but have responsibility for these matters in this Parliament, the better off all of us will be.

Climate Change (International Work)

5. **Gillian Martin (Aberdeenshire East) (SNP):** To ask the First Minister how Scotland is working with the international community to tackle climate change. (S5F-02865)

The First Minister (Nicola Sturgeon): I was pleased to take Scotland's strong messages on climate change to the international talks in Poland earlier this week. During my time there, I participated in an event with the United Nations secretary general, and took part in Al Gore's "24 Hours of Reality" to raise awareness of the actions that we all need to take to address what Sir David Attenborough recently referred to as "humanity's greatest threat."

While I was there, I also announced funding for the Marrakech partnership for global climate action, which supports implementation of the Paris agreement, and a £1 million partnership with the Solar Impulse Foundation's "1,000 solutions" project. That builds on our recent work with the international community, in which we have contributed to the United Nations Framework Convention on Climate Change Talanoa dialogue, and to the European Union's consultation on its long-term climate strategy.

Gillian Martin: As the First Minister said at the 24th conference of the parties to the United Nations Framework Convention on Climate Change—COP24—in Katowice, Governments, businesses and individuals have a moral obligation to do what they can to reduce and mitigate the effects of climate change. Will the First Minister outline what pressure her Government has put on the United Kingdom Government to join Scotland in finding practical and just solutions in working towards net zero emissions as soon as possible?

The First Minister: During the process of the Climate Change (Emissions Reduction Targets) (Scotland) Bill in May, the Cabinet Secretary for Environment, Climate Change and Land Reform wrote to the appropriate UK minister of state calling on the UK to work with Scotland on reaching net zero emissions as soon as possible. That is necessary because—as, I am sure, all members know—there are several areas in which Scotland simply does not have the devolved competence to act unilaterally: for instance, decarbonising the gas grid, which is controlled by the UK Government.

We wrote again in September to restate the calls in advance of the Intergovernmental Panel on Climate Change's special report, and we will continue to press the UK Government to match the ambition of the Scottish Government, so that we can continue to work together towards net zero emissions as soon as possible, which I am happy to restate is the goal and ambition of the Scottish Government.

Universities (Access)

6. **Liz Smith (Mid Scotland and Fife) (Con):** To ask the First Minister what action the Scottish Government is taking to ensure that student access to Scotland's universities is based on the principles of equity and excellence. (S5F-02842)

The First Minister (Nicola Sturgeon): The Scottish Government is firmly committed to equal access to higher education. Every child growing up in Scotland, regardless of their background, should have an equal chance of going to university. That is why we established the commission on widening access and accepted all 34 of its recommendations in full.

The latest Universities and Colleges Admissions Service data shows that the number of Scots getting a place at university is at a record high, as is the number of students from deprived areas. That is testament to our commitment to maintaining tuition-fee-free university education for eligible students from all backgrounds.

Liz Smith: We should welcome the most recent statistics that show those trends. However, we do not welcome the fact that recent statistics show that there are serious shortages of graduates in key sectors. One in four general practitioner practices has a vacancy, hospitals are short of 2,400 nurses and midwives, and half of Scottish businesses say that they have a digital skills gap.

The Scottish Government has been receiving letters from the parents of an increasing number of extremely well qualified Scotland-domiciled pupils who are being turned away from university in Scotland, even when places might be available, because they are Scotland-domiciled and fall foul of the Scottish National Party's capping policy. Does the First Minister think that that is fair and beneficial to the economy in Scotland?

The First Minister: Before we move on, let me dwell on the latest statistics for a moment, because I hope that members across the chamber will want to welcome them. The statistics that have been issued by UCAS this morning show that the gap in getting places at university between those from the richest and those from the poorest backgrounds is now the smallest on record, and that it has been closing for the past three consecutive years.

On the wider question, the way in which Liz Smith characterises the situation betrays a misunderstanding of how the Scottish Government's policy works. A set number of places are funded by the Scottish Government every year for Scotland-domiciled students. That is not a new policy. Those places are ring fenced; they are not subject to competition from students from the rest of the United Kingdom or international students.

The most important point, of course, is that the total number of funded places for Scotland-domiciled students in Scottish universities has increased. It increased in 2018-19 by 715 places over the previous year. Since 2012, there has been an increase of almost 2,500 places, with many of those having been targeted at areas including teacher education and nursing. The latest statistics show that the number of Scotland-domiciled students entering first-year medicine courses at Scottish higher education institutions has also increased.

Of course, resources are always finite: going back to our earlier discussions, I note that they will be even more finite if we follow the Tories' tax policies. We will continue to take decisions that support record numbers of Scottish young people getting to university.

The final point that I will make is that I suspect that shortages right now of skilled workers in key sectors of the economy have a lot more to do with the Tories' Brexit policy than with anything else.

The Presiding Officer: I am conscious that a large number of members whom I was not able to call wished to ask supplementary questions today. I appeal to all members to keep their questions succinct, and to the First Minister to keep the answers similarly succinct. We will get more members in, that way.

12:47

Meeting suspended.

12:51

On resuming—

World AIDS Day

The Deputy Presiding Officer (Linda Fabiani): The next item of business is a members' business debate on motion S5M-14820, in the name of Emma Harper, on the 30th world AIDS day. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes that 1 December 2018 will mark the 30th World AIDS Day; recognises that the day offers the opportunity to raise awareness of HIV, to challenge stigma, and to reflect on the progress that has been made in the fight against HIV in Scotland and around the world; understands that, with early diagnosis and effective treatment, it is a manageable long-term health condition; recognises however, that it continues to represent a significant public health concern, affecting some of the most marginalised groups in society and often driven by stigma and discrimination; believes that such stigma has a damaging impact on the physical and mental health and wellbeing of people living with the condition and that it acts as a disincentive to access testing and treatment; considers that this can undermine efforts to reduce new infections; commends the joint work of Waverley Care and Scotland's NHS boards across to promote the "Undetectable=Untransmittable" (U=U) message, which is that a person living with HIV who achieves and maintains an undetectable viral load cannot pass on the virus through sex; recognises that this message has been endorsed by health professionals, charities and campaigners worldwide, including the British HIV Association, and believes that information around U=U, and other HIV prevention options, including pre-exposure prophylaxis, can contribute to an improved understanding of HIV, a reduction in stigma and fewer new infections.

12:51

Emma Harper (South Scotland) (SNP): World AIDS day is marked on 1 December, and I am pleased to be able to reflect on the importance of the day and its 30th anniversary this year. The debate is an opportunity to raise awareness of HIV and the impact of the stigma and prejudice surrounding HIV and AIDS on people who are diagnosed and people who are undiagnosed. I thank colleagues from across the Parliament for supporting my motion and for taking part in the debate. I welcome the people who are in the gallery and those who are watching online.

The debate allows us to reflect on the past 30 years of infection, detection, diagnosis and—now—successful treatment. Today, in Scotland, there are 5,134 people who are diagnosed with HIV, and 350 new cases are diagnosed each year. I cannot stress enough how important it is to get the message across to everyone that, once a person has received a diagnosis and appropriate treatment, and once their viral load of the HIV virus becomes undetectable, they cannot pass on the virus through sexual transmission.

Last week, in Parliament, I met Murray Cheek and Grant Sugden from Waverley Care to discuss their work. Alongside national health service boards across Scotland, Waverley Care does important work to promote the importance of people knowing their HIV status and to promote the undetectable equals untransmittable, or U=U, message, which is a key focus of the 30th world AIDS day. It means that, if a person living with HIV achieves and maintains an undetectable viral load by adhering to their medication, the HIV virus cannot be passed on through sex.

In preparation for the debate, I reflected on my time in the early 1990s at Cedars-Sinai medical centre in the heart of west Hollywood, in Los Angeles. I contacted my former nurse colleague Jacqui Engstrand, who worked as a research nurse in the dedicated HIV and AIDS unit, which was set up in 1991 and was known as "the unit". That was when the model of care for people with AIDS focused on a palliative end-of-life care approach. By the early 1990s, we knew that HIV is a blood-borne virus that weakens the immune system and, when left untreated, leaves people open to a range of potentially deadly infections.

Back then, I looked after patients with a rare skin condition called Kaposi's sarcoma and others with pneumocystis carinii pneumonia, which is a rare lung infection that is often seen in people with HIV. The stigma associated with HIV was evident. I recall people referring to the disease as gay-related immune disease—GRID—which was distressing for patients, but we have made progress since then. As a nurse, I knew that the HIV virus was transmitted through sex and sharing of needles and was not just a gay man's disease. One day, while I was in the pre-op area in the operating room, I had an interesting experience when I witnessed a colleague's nervous and anxious behaviour when speaking to a patient with a diagnosis of AIDS ahead of surgery. I was dumfoonert when my anaesthetist colleague—an educated, well-trained and very knowledgeable doctor—entered the pre-op area wearing a gown, double gloves, a mask and a face shield and spoke to the patient from 1m away without touching them. He looked like he was in the sort of viral breakout protective gear seen in the movies.

HIV is not transmitted through the airborne route. Standard precautions are required and no double gloves are needed. However, only yesterday, I was shocked to hear from Nathan Sparling of HIV Scotland that double-gloving recommendations are still made today in relation to dealing with elderly HIV-positive persons. The prejudice and stigma remain. Persons with HIV are still placed on the end of dental lists or clinic

reviews, which is not needed. The standard precautions for dealing with any patient with a blood-borne virus are adequate. I am therefore pleased to endorse HIV Scotland's "Road Map to Zero" document, which contains important information about tackling stigma, and I encourage health professionals across Scotland to view it.

At a world AIDS day event in Parliament last week, I sat next to James McAbraham, who recited his poem from the wee book "Disclosures: Rewriting the Narrative about HIV". The opening lines of James's poem describe how it had been a long time since someone had touched him, and his poem reminded me of my experience in the pre-op area 28 years ago.

As time progressed, new drugs started to become available. Phrases such as "protease inhibitors", "antiretrovirals" and "highly active antiretroviral therapy" have become common in our vocabulary.

While I was in Los Angeles, a famous basketball player, Magic Johnson, announced that he had an undetectable viral load. Undetectable does not mean cured, as the media touted; undetectable equals untransmittable—we must remember that. He was a heterosexual man, and this was huge news. Magic Johnson could not pass on the virus through sex. That is the message that we need to share today: undetectable equals untransmittable.

I am pleased that Scotland is a leader in the fight against HIV and AIDS. We are meeting the United Nations 90-90-90 targets, which are that, by 2020, 90 per cent of all people living with HIV will know their HIV status, 90 per cent of all people diagnosed with HIV will have access to sustained antiretroviral therapy and 90 per cent of people in receipt of antiretroviral therapy will have viral suppression or a negative viral load.

If we can find, reach and test the 10 per cent of Scots who have not been tested, we can initiate treatment so that the virus will not be passed on. Once a diagnosis is made, treatment can begin. Today, in Scotland, HIV is considered to be a manageable long-term health condition, with treatments such as pre-exposure prophylaxis—PrEP—allowing people to be protected.

Testing has a central role to play in reducing the number of new infections, particularly by helping to reduce the proportion of HIV cases that are undiagnosed. Testing is as simple as a finger-prick blood sample, results are known immediately and people can be tested at sexual health clinics, at general practitioner surgeries, by home self-testing and at community projects.

I emphasise the importance of the need to fight the stigma that is attached to the disease. It has a damaging impact on the physical and mental health both of people living with HIV and of those who are thinking about being tested. I look forward to hearing my colleagues' contributions, and I reiterate that U=U—undetectable equals untransmittable. I encourage everyone to know their HIV status.

12:57

Miles Briggs (Lothian) (Con): I thank Emma Harper for bringing this members' business debate to Parliament. I am pleased to take part in a debate on the 30th world AIDS day, which raises awareness of HIV, challenges stigma and is a chance for all of us to reflect on the progress that has been made in tackling HIV and AIDS.

Since the first world AIDS day, on 1 December 1988, when I was just five, huge progress has been made to end the AIDS epidemic and to tackle the stigma surrounding HIV. With early diagnosis and proper treatment, HIV is now a manageable long-term health condition. We need to talk about that more, and so do medical professionals.

As Emma Harper has rightly stated, as well as being manageable, HIV is also untransmittable by people who achieve and maintain an undetectable viral load. I very much agree with Emma Harper that the U=U message needs to get out there. It is crucial for an improved understanding of HIV and a reduction in stigma, as well as for achieving fewer new infections in the future.

Stigma is probably the biggest obstacle in the fight against HIV/AIDS, making people living with HIV feel isolated. I have often been told that by people to whom I have spoken about the issue. It can also prevent people from getting tested and accessing treatment. I thank HIV Scotland for all the excellent work that it is doing to change the narrative around HIV and AIDS, and I congratulate it on the launch of its new book "Disclosures: Rewriting the Narrative About HIV", which has been mentioned. I am thankful to HIV Scotland for giving me a copy last week. I have not yet had a chance to read it, but I look forward to doing so over the winter recess.

I find it shocking that the recent survey by Waverley Care revealed that 14 per cent of respondents did not have sympathy for those living with HIV. That reinforces the fact that more still needs to be done to tackle stigma, and I hope that this debate helps to highlight that.

Last week, in the House of Commons, Labour MP Lloyd Russell-Moyle announced to the nation that he is HIV positive. In his speech, Mr Russell-Moyle spoke about when he was diagnosed as being HIV positive, 10 years ago, and everything that went through his head during that time. He also talked about how the medication that he now takes means that he can be healthy and that any

partner that he may have can be protected, promoting the message that undetectable equals untransmittable.

Mr Russell-Moyle's bravery in talking about his diagnosis, and his message that the status of being HIV positive does not define a person, will go a long way towards reducing the stigma associated with HIV and AIDS. I repeat his important message, which Emma Harper highlighted, that people need to look towards their status and be tested, instead of not doing that out of fear. It is better to live in knowledge than to die in fear.

I fully support the goal of having zero new infections, and I believe that we, in Scotland, can work to achieve that. In 2017, 368 new cases of HIV were reported, and in 2018, up to September, 218 new cases have been reported. On the UNAIDS fast-track strategy 90-90-90 targets, it is estimated that 87 per cent of infected people in Scotland know their status and that, of those who do, 98 per cent are receiving antiretroviral treatment and about 97 per cent have achieved viral suppression.

This is an important debate, and I am pleased to take part in it every year, because Scotland can lead the way in eliminating new HIV infections. However, to do that, more work still needs to be done. First, and most important, we need to fight the stigma around HIV and AIDS so that more people have the confidence to get tested and we can stop the spread of the virus.

I thank Emma Harper once again for bringing the debate to the chamber and look forward to listening to the other contributions.

13:01

Ruth Maguire (Cunninghame South) (SNP): I thank Emma Harper for securing this important debate on world AIDS day, and for giving us the opportunity to come together across the chamber to show support for people living with HIV and to commemorate those who have died from an AIDS-related illness.

I will use my time to speak about women and HIV, and give particular mention to the excellent report by the Terrence Higgins Trust, "Women and HIV: Invisible No Longer".

I am grateful to Waverley Care for its briefing on the work of the African health project, which was established in 2003 to meet the needs of Scotland's growing African population. The African health project provides information, advice and support to Africans living in Scotland. Despite the lack of specific figures for Scotland, we know that HIV disproportionately affects African communities and that late diagnosis, which can lead to health complications, is common for people from those communities. Those inequalities are largely driven by HIV stigma and a lack of awareness about the condition, which can sometimes be reinforced by cultural and religious beliefs. For Africans living with HIV, the stigma can lead to isolation from the community, a breakdown of relationships and negative impacts on their physical and mental health. The project aims to improve health and wellbeing, and to support people to access healthcare services, including HIV treatment and care.

Waverley Care works closely with community groups, businesses and churches to raise awareness of HIV and to promote sexual health. That includes making condoms freely available in community venues in the areas where Waverley Care works, alongside offering testing for HIV, hepatitis B and hepatitis C. Waverley Care also supports people with other issues affecting the African community, including immigration, housing, managing money and employment.

Women make up one third of all people living with HIV, and one quarter of new HIV diagnoses in 2016 were in women. Despite that, it is fair to say that women living with HIV have not been particularly visible in the narrative and the response to HIV in the United Kingdom, and we do not know very much about what it means to be a woman living with HIV in Scotland.

From my constituency work, and as reported in "Women and HIV: Invisible No Longer", we know that existing HIV services are rarely designed with women in mind. People living with, and affected by, HIV are not a homogeneous group. To treat them as such will result in services that do not meet their needs and, worse, could risk not reaching those for whom the safety net already has massive holes. It is estimated that 1,300 women are living with undiagnosed HIV. It is critical, for both individual and public health, to improve rates of early diagnosis, and HIV testing is key to achieving that. I echo Emma Harper's call for everybody to know their HIV status.

If they are diagnosed early and receive effective treatments, people with HIV can have a normal life expectancy. If they are diagnosed at a late stage, and if significant damage to the immune system has already occurred, those people will have poorer health outcomes and potentially a much-reduced life expectancy. If someone is unaware of their HIV status and is not on treatment, it is much more likely that they will unknowingly pass on HIV to others.

The HIV prevention drug, PrEP, is currently almost exclusively accessed by men. In the first eight months during which PrEP was available on the NHS in Scotland, only 10 out of the 1,299 people who accessed the drug were women.

Waverley Care told me that one in 21 heterosexual African women in Scotland are living with HIV, and we know that a third of all people who are living with HIV are women. Therefore, in closing, I ask the Scottish Government what is being done to redress the imbalance of access to the drug and I offer to bring together interested parties to assist the Government in that work, if it would be helpful.

13:06

Mary Fee (West Scotland) (Lab): I am grateful for the opportunity to contribute to this important debate and I thank Emma Harper for bringing it to the chamber.

Last Saturday, 1 December, marked the 30th anniversary of world AIDS day. That landmark provides an opportunity for us, as parliamentarians, and for Scottish society more broadly, to reflect on the significant progress that we have made over the past three decades in the fight against HIV through prevention, treatment and destigmatisation.

As we have heard, HIV is now a manageable long-term health condition. With proper treatment, individuals can live long, healthy lives and experience either very few, or no, adverse symptoms of their illness. However, that was not always the case. During the 1980s, when the diagnosis rate of HIV increased substantially in a short period, the virus was viewed by many people as a death sentence and was perceived to significantly shorten the lives of people who were diagnosed.

The story of HIV in Scotland and across the UK was shaped by homophobic and moralistic rhetoric. Throughout the 1980s, HIV was labelled the "gay plague" as homophobic misinformation spread quickly. It was a commonly held view that HIV was spread primarily by men having sex with men. The original public health campaign that emerged during the 1980s to raise awareness of HIV included television advertisements, posters and pamphlets that frequently evoked the imagery of intimate homosexual relationships. Those images fed in to wider homophobic societal assumptions that homosexuality was wrong and immoral. The public health campaigns disproportionately focused on the spread of HIV through sex between men and they completely omitted discussion of other means of spreading HIV, including heterosexual intercourse and injected drug use.

As a result of much protest and fighting and the active challenge of the spread of homophobic misinformation, the stigma around HIV has thankfully weakened significantly over the past three decades. Although much work still needs to be done in order to eradicate the scourge of homophobia from Scottish society, it is unquestionable that our country is now a more inclusive, tolerant and welcoming place for all lesbian, gay, bisexual and transgender people. Earlier this year, the European region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association—ILGA-Europe—ranked Scotland as the best country in Europe for LGBT equality, for the second year in a row. The moralistic scare campaign around HIV of the 1980s is thankfully over.

It is now widely accepted among the scientific community that a person who is living with HIV can take medication to manage their illness, which allows those individuals to achieve and maintain an undetectable viral load. That means that they cannot pass HIV on to sexual partners.

As we have heard, that situation is known as undetectable equals untransmittable. The U=U status is a vital step that helps to challenge the stigma around HIV and highlights that people with HIV can live long, active and healthy lives. It is now our duty to ensure that that information becomes more widely known in society and that it is not known and understood by only the scientific community.

Despite the impressive progress made in Scotland over the past 30 years in preventing, treating and managing HIV, the illness remains a critical public health issue in many countries across the globe, and particularly in those in the global south. Recent figures from Avert illuminate the continuing prevalence of HIV, with more than 36 million people living with HIV across the globe, including more than 1.5 million children. We cannot celebrate our progress in isolation. Although it is important that we recognise our own success, we must not become complacent in the fight again HIV. It is time that we redoubled our efforts to work at not only a national level but an international level to educate and to prevent and treat HIV in pursuit of the United Nations AIDS 90-90-90 target, which is to be achieved by 2020.

13:11

Patrick Harvie (Glasgow) (Green): I, too, warmly thank Emma Harper for bringing this debate to the chamber.

We have had three decades of world AIDS days, which is an extraordinary fact. I find it extraordinary, too, that I have been a member of the Scottish Parliament for half that time. I recently read the *Official Report* of the world AIDS day debate that I took part in in 2003, which was brought to the chamber by a former Labour colleague, Des McNulty, whom I bumped into the other day and exchanged a "Hello" with. As I have

reflected at a couple of world AIDS day events this year that I have spoken at, the fact that we have debated world AIDS day so many times has made me recognise not only how much has changed but how much things have stayed the same.

Back in 2003, we were debating Scotland's first-ever sexual health and relationships strategy, which was still in draft and not yet in place. Although progress has been made since then, we still see a great deal of patchiness around sex education and relationships education in our schools. We must continually drive to put pressure on all political parties and the Government to improve that situation.

Before I was elected as an MSP, I worked in an HIV agency during the years when we were starting to see the first effective antiretrovirals becoming more available. However, at that time, the antiretrovirals had many problematic side effects. Treatment usually involved a more complex combination of drugs than is used today, which was much more problematic for people, especially those with chaotic lifestyles. We have now got to the point, though, where we have so many more effective remedies and tools in the box for treatment that leads to people being unable to pass the virus on through sex, as other members have mentioned. We also have new tools in the box for prevention, and members have mentioned pre-exposure preventative prophylaxis—PrEP—in that regard. There is now the opportunity to prevent HIV being transmitted among people who are in the highest-risk groups. I could not have imagined when I worked in the HIV agency that we would now be at a point where we have those new tools in the box.

We still see, however, issues around stigma. When I was a student, I was probably in a lucky generation, because if I had come out a few years earlier, before condom provision was widespread and people were aware of HIV, I might have been at much more risk. However, when I was a student, James Anderton—"God's Cop"—was the chief constable of Greater Manchester and he was protected by the United Kingdom Government for his homophobic and bigoted comments about HIV and AIDS. He authorised raids on gay clubs in Manchester—I was reminded of this when Emma Harper talked about a medical professional using surgical protective gear—that involved police being sent into clubs wearing biohazard equipment in order to manhandle people who were just there for a night out. It was an extraordinary level of ignorance and prejudice, which was being cultivated deliberately at the time by those in power as well as by those with influence in the media.

Much has changed, but there are still problems with stigma and there are still pockets of severe ignorance and prejudice. I pay tribute to Lloyd Russell-Moyle—as Miles Briggs did—for coming out publicly, in the House of Commons, as someone who has a positive diagnosis of HIV. For an MP to say that not only are they willing to challenge the stigma of HIV, but that someone with HIV can and does lead an active, healthy and long life and that it is something that HIV positive people can expect, is in itself an important thing to do in challenging stigma.

As Mary Fee said, we have made progress, but there is still a huge way to go on the international aspects. We are still a long way from achieving the 90-90-90 target around the world. A great deal has changed, but a great deal is still the same.

The Scottish Government has a sexual health and blood borne virus framework, which runs to 2020. That means that, next year, the Government will be doing the work on the next update. I urge the Scottish Government, recognising the new tools for prevention and treatment, to make a policy commitment to setting a target of zero new infections of HIV in the next update. That would be an important step forward and would drive the progress that we need to make.

Once again, I thank Emma Harper for securing the debate.

13:16

Gillian Martin (Aberdeenshire East) (SNP): I, too, thank my colleague and friend Emma Harper for bringing to the chamber this debate to mark the 30th world AIDS day. It is only a year since the First Minister publicly took an HIV test in a bid to break down barriers to getting tested. That was an incredibly powerful moment and I am sure that it encouraged more people to follow in her footsteps.

As many members have mentioned, we have come a long way in the decades since HIV and AIDS entered the public consciousness. Extraordinary headway has been made, which is due in large part to the bravery of those with the condition in speaking out and to organisations such as HIV Scotland and Waverley Care, which make huge contributions to helping to break down barriers and encourage testing.

The most recent figures show that an estimated 426 people in the NHS Grampian area are living with a diagnosis of HIV. Between 2009 and 2018, the figures for new diagnoses in NHS Grampian have fluctuated from 21 to a high of 35 in 2013, before dropping to 17 in 2015 and rising slightly again to 22 last year. I hope that that rise is a result of more people coming forward to get tested and diagnosed, which—as everyone has mentioned—is hugely important in stopping the spread of infection.

Although we welcome better detection rates, it is important that we do all that we can to educate people about protection and the importance of testing. We know that HIV testing rates among Scottish respondents are "worryingly low"—that is the phrase that is used in a recent report published by HIV Scotland.

When I was researching for the debate, I looked at the support that has been offered to those with HIV in the north-east and in my constituency. I came across the story of Colin McKay, who has dedicated his life to helping to support those with HIV. Colin said that, initially, he became involved with organisations that help to support people, out of guilt. The reason for that guilt was that he had distanced himself from someone he knew who had been diagnosed. He reflected on that and wanted to make amends. He decided to use that feeling and the fear that he had felt and channel that energy into helping people. He realised that he could help, and the more that he became involved with helping, the better he understood the illness and how those who were diagnosed with HIV felt, so he helped to educate. He has helped many people find their own voice and be able to say that they are struggling or that they deserve better support. People such as Colin are admirable because the more that we choose to break down those barriers, the more we can encourage others.

I agree with Mary Fee about the messaging. I was reflecting that I was in my first year at university when the don't die of ignorance campaign ran, with its icebergs and its ridiculous scaremongering messaging. That campaign was stigmatising and deeply homophobic. Its legacy still causes damage; it stops people coming forward for testing and blinds them to how the virus is actually spread, which is dangerous. As Ruth Maguire said, women were rarely considered in any of the public health messaging. The situation is improving, but such approaches are still lodged in people's minds.

Thirty-five years on from the discovery of HIV, we know much more about the virus. We know that people can live with it, but we also know that it is a diagnosis that is still rife with stigma. We are miles away from the era that I described, as everyone has said, but the public health measures and messaging on HIV still need to be communicated continuously, loudly and clearly. I thank Emma Harper again for playing her part in that by allowing us all to talk about HIV today.

13:20

Jamie Greene (West Scotland) (Con): Presiding Officer,

"In the bed was a skeletal young man, wasted away to less than 100 pounds ... he wanted to see his mother before he died."

I said, "He wants his mother," to the nurses, who laughed and said,

'Honey, his mother's not coming. He's been here six weeks. Nobody's coming.'"

I phoned his mother, who hung up on me. I called her back and said,

"'If you hang up on me again, I will put your son's obituary in your hometown newspaper and I will list his cause of death.' Then I had her attention."

The woman told me that her son was a sinner.

Those are the words of Ruth Coker Burks. In the mid-1980s, she was a brave young woman who cared for young men in the US who were dying of what was then known as GRID.

The story that Ruth Coker Burks tells is sad. She said that she had a little spade and that she would dig a hole to bury people herself. She would hold a

"do-it-yourself funeral. I couldn't get a priest or a preacher. No one would ... say anything over their graves."

That was the situation 34 years ago.

That story is hugely depressing. Attitudes have changed and much that is good has happened in the past 30 years, but it is still important to have debates such as this. In the few minutes that I have, I will talk about some of that good work.

I have a number of people to congratulate. My first set of congratulations is to the city of Glasgow, which has signed the Paris declaration to end new HIV infections by 2030 and do its bit to stop stigma and discrimination. Good on Glasgow for doing that.

Like others, I congratulate Mr Lloyd Russell-Moyle, who is a member of the UK Parliament, on his immense bravery in standing up in his national Parliament to be open to the world about his HIV status. He said that he did that because he wanted to set an example that it is okay to talk about such things in the public domain. He also wanted to talk about what being HIV positive undetectable means.

My next set of congratulations concerns the work that is going on in Scotland on the U=U campaign, which raises awareness that, if someone is HIV positive and is on the right medication, the virus will be untransmittable, because it will be undetectable. That means that a person cannot pass on the virus. The message is simple, but I am not sure that everyone gets it.

The problem is that 9 per cent of people who are living with HIV in Scotland do not know that they have HIV. There is still a huge amount of stigma, and people are still afraid to go to be tested. Campaigns such as U=U tell people that, even if the result is positive, there is treatment out there, they can live a long, healthy and happy life

and they can have sexual partners and relationships like anybody else.

On PrEP, I congratulate the Scottish Government. It is incredible that Scotland was the first part of the UK to introduce that treatment and we should all be extremely proud of that. PrEP has revolutionised things—it has been a game changer, especially in the LGBT community. For those who do not know—perhaps for those who are watching the debate—I explain that people who are HIV negative take the treatment before sexual encounters to reduce risk. There are estimates that the reduction can be more than 99 per cent—I do not have the exact number to hand. The times when it does not work are perhaps when people have not been adhering to the regime.

The increased demand for PrEP is putting huge pressure on services, especially in cities. When my office rang Chalmers sexual health centre in Edinburgh to see how long it would take to get an appointment to register for PrEP, we were told that it would take until February of next year, or three months. My office called back this morning, before the debate, and the date has come forward to January, so it is getting better. However, it is clear that the sheer demand for the service is putting a huge strain on those who have to deliver it. I congratulate the people who deliver that incredible service across Scotland.

My fifth and final set of congratulations is to Waverley Care, whose tartan ribbon I am wearing today. I thank the people at Waverley Care for their hospitality at their fundraising dinner on Saturday night. It was a bit of a shindig, and a huge amount of money was raised. Waverley Care has been around for 30 years, since the days of Ruth Burks and those horrific stories of how we used to treat people with HIV. I congratulate Waverley Care on, and thank it for, the incredible work that it has done over the past three decades.

One day, I hope that we will not need debates as sombre as today's debate. By then, I hope that we will make sure that those who are HIV positive get the treatment that they need, and that we will not be talking about new infections, because there will be none. Perhaps a vaccine is just around the corner—who knows? I am hopeful, but that will need huge amounts of political will.

13:26

The Minister for Parliamentary Business and Veterans (Graeme Dey): As others have, I thank Emma Harper for bringing this significant matter to the chamber and I thank all members for their thoughtful contributions as we mark the 30th world AIDS day.

This is an important topic and I am pleased to respond on behalf of the Government. I am standing in for the Minister for Public Health, Sport and Wellbeing, Joe FitzPatrick, who was disappointed that, owing to long-standing ministerial business, he could not be here.

As Mary Fee noted and Patrick Harvie so eloquently reminded us, the world has come a long way in relation to HIV and AIDS over the past three decades, and there is much to be proud of in the progress that Scotland has made on that.

As Emma Harper and Miles Briggs highlighted, it emerged last week that we had not just met the UNAIDS 90-90-90 target, but that we had exceeded it. An estimated 91 per cent of HIV-positive people in Scotland know their status; 98 per cent of those people are receiving treatment; and 97 per cent of people who are receiving treatment are achieving viral suppression. That is real and significant progress, which deserves to be recognised and celebrated. I want to take a moment to do that before moving on to the work that is still to come, because the Scottish Government agrees that we cannot and we must not stop now.

A key area of progress has been on testing for HIV. It is important that people who are at risk of HIV get tested, and that we remove any barriers to that testing. In Scotland, there are many people across the national health service and the third sector who have worked incredibly hard to find new ways to promote and provide testing, and to challenge the misinformation and stigma that can hold people back from coming forward for testing.

Another significant milestone in the effort to tackle HIV in Scotland was met in July last year, when PrEP became available on the NHS. As others have noted, PrEP occupies a valuable place in our toolkit to prevent new HIV transmissions. As Jamie Greene noted, we should take pride in the fact that Scotland was the first part of the UK to make PrEP available on the NHS to those who need it. NHS colleagues have worked exceedingly hard to make it available to those who could benefit from taking it. I note Jamie Greene's comments in that regard. Over 1,800 people have started on PrEP in the first year of its availability. That is 1,800 people whose risk of getting HIV is now dramatically lower. That achievement is well worth celebrating.

However, the statistic highlighted by Ruth Maguire—that only 10 women have accessed the drug—is a concerning one. I will ask Mr FitzPatrick to write to her in response to that. I will also draw to the minister's attention Patrick Harvie's point about the next strategy, covering the post-2020 period.

Although we have made fantastic progress, I agree with Miles Briggs that we cannot rest on our laurels. It is important to recognise that there are still challenges ahead, and it is critical that we work collaboratively in order to keep making progress. Emma Harper reminded us of that when she mentioned that double gloving still takes place and that HIV patients are still placed at the end of dental lists.

Given that an estimated 9 per cent of people who live with HIV are unaware of their status, there remains a challenge around testing. Working across organisational boundaries will be key here. We must ensure that third sector organisations are empowered to offer testing, and we need to support NHS colleagues across different specialties to be aware of HIV and to know when to offer testing, so that we can meet Emma Harper's challenge of finding, reaching and testing people.

The Scottish Government is providing more than £2 million to organisations that deal with sexual health and blood-borne viruses between 2018 and 2021. The organisations that are being funded include Waverley Care, HIV Scotland and the Scottish Drugs Forum, all of which have a role to play in promoting testing to the different communities in Scotland that are most at risk.

The outbreak of HIV among people who inject drugs in Glasgow serves as an important reminder that we cannot afford to be complacent. Last week, my colleague Joe FitzPatrick paid a visit to the staff in NHS Greater Glasgow and Clyde who have been involved in tackling the outbreak there. He was impressed by their dedication and by the collaborations that they have established to tackle the outbreak.

However, we want to do more. As we stated in the alcohol and drugs strategy that was published last week, the Scottish Government will support measures that might initially seem controversial or unpopular—including the introduction of supervised drug consumption facilities—that are driven by a clear evidence base. Mr FitzPatrick met the UK Government a few weeks ago. Regrettably, its stance continues to be that it will not allow such an initiative to proceed. We will continue to press for a change in the law or the devolution of the necessary powers.

As many colleagues have rightly said in their contributions to the debate, HIV stigma has no place in Scotland today. We must all commit to seeing the individual person and must never reduce or define someone by their HIV status. We must continue to challenge misinformation and to spread the word that a person who is diagnosed with HIV in Scotland today can expect to live a full life and to have near-normal life expectancy. We must share the message that an individual with a sustained, undetectable level of HIV viral load in their blood is unable to transmit HIV to their sexual partners. As colleagues have repeatedly made clear in the debate, undetectable equals untransmittable.

I will finish where I started by again thanking Emma Harper and everyone who has contributed to the debate.

13:32

Meeting suspended.

14:30

On resuming—

Health and Care (Staffing) (Scotland) Bill: Stage 1

The Presiding Officer (Ken Macintosh): The next item of business is a stage 1 debate on motion S5M-15055, in the name of Jeane Freeman, on the Health and Care (Staffing) (Scotland) Bill.

14:30

The Cabinet Secretary for Health and Sport (Jeane Freeman): The people of Scotland rightly expect safe, effective and person-centred healthcare. Ensuring that we all have continuing and improved access to the right care at the right time has been the guiding principle of our approach to health and social care services, but that is a significant and complex task.

In common with users of healthcare systems elsewhere in the world, we are living longer but not yet healthier lives. That brings the challenge of more complex health conditions to more of our citizens. In meeting the increasing demand on our services, it is essential that we act to make sure that our whole system of health and care has the capacity, focus and workforce to address the needs of our changing society.

I have set out my expectations for improved mental health services, improved access through the waiting times improvement plan, and continuing pace in the reform of our health and social care services, underpinned by improvements in primary care. However, those improvements can be secured only through the hard work and dedication of our health and care staff.

There is a compelling argument that having sufficient staff working in a psychologically safe environment is integral to good patient outcomes. That is why we need to put in place measures to ensure that, at all times, we have evidence-based safe levels of staff.

The Health and Care (Staffing) (Scotland) Bill is grounded in, and builds on, the excellent approach to workload planning that has been led by our nurses and midwives. The development of the staffing methodology and specialty-specific tools has been an innovative, evidence-based and—importantly—professional-led approach. The approach has led to the use of those tools in the Welsh legislation on safe staffing and in the development of workload tools that are used by NHS England. Recognising the value of such an approach, we made a manifesto commitment to secure it in legislation. This bill now goes further than that commitment, putting in place a framework to systematically identify the workload that is needed to improve outcomes and deliver high-quality care.

In developing the bill, we carried out two consultations and held 10 public events. My officials, my predecessor and I have worked with representatives of nurses, doctors, allied health professionals, health boards, local authorities, care service providers, professional bodies, trade unions and others to enable an approach that works in one part of our health and care system to spread across the whole system.

Throughout the process, we have worked hard to listen to ideas and views and to look at how we can make this work. I recognise that there can be competing interests, that our integration agenda is ambitious and that the approach that the bill encapsulates will require a significant cultural shift in our health and care organisations. We saw that reflected in the evidence that was taken by the Health and Sport Committee.

However, I believe that, throughout the process, it has also been clear that the bill is an opportunity. It is an opportunity to create a rigorous, evidence-based approach to decision making on staffing that takes account of patients' and service users' health and care needs. It will identify the workload that is required to meet those needs, assist the exercise of professional judgment and promote a safe environment.

The bill is an opportunity to ensure that the professional judgment of our staff who deliver health and social care is heard. It is also an opportunity to create transparency around staffing decisions—which will aid Healthcare Improvement Scotland and the Care Inspectorate in supporting improvement across our health and care services—and to give staff and patients the confidence that, at all times, decisions are made on staffing that support safe, effective and person-centred care.

Healthcare Improvement Scotland and the Care Inspectorate will play crucial roles in implementation of that approach. Both will be responsible for facilitating the development of staffing tools and methodologies in collaboration with the services that will use them. In doing so, they will identify, develop and implement continuous quality improvement rather than focus solely on compliance with minimum standards.

The matter of our giving HIS a specific function in the bill has been raised. I will lodge an amendment at stage 2 to make the role of HIS absolutely clear.

The bill puts in place a methodology and procedures to ensure that health boards and care service providers have appropriate staffing. The

bill is not about nurses alone, nor is it about setting a minimum number of staff to deliver any particular service. It is founded on the innovative approach that our nurses and midwives have developed, which starts with a robust, evidence-based assessment of the care that the people using our services need and want. Only when we understand that can we be sure that we understand the workload we need, the skills that are necessary to meet it and what staff need to have in place to deliver that care to a high quality.

The voice of the professional must be heard as part of this process. The increased transparency that the bill requires will make obvious the workload that exists and the corresponding skills that are required to deliver high-quality care. That will assure health boards, HIS, the Care Inspectorate, health and care staff, professional bodies, trade unions, this Parliament, this cabinet secretary and, importantly, the public that we have the right staff with the right skills in place. I believe that that is exactly the right thing to do.

Monica Lennon (Central Scotland) (Lab): I agree that it is important that staff be listened to. Recent figures reveal that, in the past three years, there have been 1 million days of stress-related absence in the national health service, not counting those in social care. What is the Scottish Government doing outwith the bill to address that situation and to make sure that the concerns that staff have now about safety and pressure in the workplace are being addressed in real time?

Jeane Freeman: I am grateful to Ms Lennon for raising the matter. I know that she has raised it before. Like her, I take stress-related absences—indeed, any absences in our health service—very seriously. Our boards are putting in place a number of measures relating to mental health support for staff. We need to recognise that not all stress arises from workplace issues; sometimes, it arises from personal or domestic issues that nonetheless impacts on an individual's performance and enjoyment of their work. The measures that we are beginning to put in place across our health boards do not distinguish but simply ask how we can help staff. I am happy to give Ms Lennon more detail on that matter and to discuss further with her, if she wishes, how we might improve on that.

It is clear from my conversations with representatives of staff groups that the bill could be improved by placing a more explicit duty on health boards to ensure that there are clear mechanisms for day-to-day assessment of staff needs and clear routes for the professional voice to be heard in those assessments. I am pleased to confirm that I will lodge an amendment at stage 2 to include that duty.

The effective application of the legislation will also support the wider workforce planning processes. Providing that evidence-based information on workload at a local and service level will enhance the planning of workforce needs locally, regionally and nationally.

Alex Cole-Hamilton (Edinburgh Western) (LD): Will the cabinet secretary give way?

Jeane Freeman: If the member does not mind, I will come back to him.

I know that each and every profession contributes to the delivery of positive outcomes for service users, which is why the legislation applies across all staff who deliver health and social care services. The general duty to ensure that there is appropriate staffing and the overarching principles will span all staff groups, not just nursing and midwifery. That will support multidisciplinary planning and service delivery and will mitigate the risk of unintentionally diverting resources to nursing and midwifery at the expense of any other staff group.

Alex Cole-Hamilton: Although the bill is worthy, it is nothing without adequate workforce planning underpinning it. We cannot legislate to make staffing safer and expect that just to happen. Can the cabinet secretary confirm that the move towards the methodologies and toolkits that are described in the bill will not see staff moved out of non-acute services to ensure that acute services are staffed safely?

Jeane Freeman: Yes, I can confirm that. As I am in the middle of explaining, as a legislative framework around a methodology, the bill applies to all staff groups across health and social care. To do anything other would, indeed, be to risk unintended consequences such as moving resource to one area at the expense of another.

Workforce planning is absolutely critical, but good workforce planning is based on sound evidence. As I will come on to say later, the bill is an important component of producing that sound evidence at a local and service level and will feed into the workforce planning of health boards and integration joint boards and, through them, into national workforce planning.

In taking a broader approach, the bill achieves the legislative coherence across the health and social care landscape that is demanded by integrated health and social care and that rests on the important recognition of value across all staff groups. As I have just said, it is another lever to join up services, support innovation and redesign and deliver sustainable high-quality care. In taking that broader approach, the bill will not be restrictive or prescriptive but will be appropriate and enabling for the social care sector. In particular, it will support the direction of travel that

is set out in the co-produced part 2 of the national health and social care workforce plan. Any new tools and methodologies will be developed specifically for and by the professionals who will use them. The current suite of tools will not remain unchanged but will continue to be reviewed and renewed to effectively support multidisciplinary approaches to the delivery of care. Where appropriate, we are taking a multidisciplinary approach, and I will look to amend the bill at stage 2 to make that clear.

The Government is committed to ensuring that Scotland has the appropriate staffing for the delivery of safe, high-quality care. The bill will contribute to that aim by placing a duty on health boards and care services to ensure that appropriate numbers of suitably trained staff are in place to provide safe and high-quality care. It requires health boards to apply evidence-based and professional-led approaches to nursing and midwifery workforce planning. It promotes a continuing culture of transparency and engagement with staff, and it facilitates the future development of that approach across health and care settings, with tools being developed through partnership and taking account of the size and complexity of the services.

I believe that we can all agree that the framework that the bill offers to put in place the right number of staff in the right place at the right time and with the right skills is the right thing to do.

So far, I have addressed many of the issues that were raised by the Health and Sport Committee in its stage 1 report. I welcome the committee's support for the general principles of the bill and I thank the committee members for their full consideration of the complexity of the approach, especially in the integrated landscape. In particular, I thank them for the view—which I assuredly share—that the professional voice must be heard at all levels.

I acknowledge that we are not all in agreement on every part of the bill, and I have welcomed the challenges and the constructive discussion that we have had so far. I commit to continuing to work with those who deliver health and social care, and with members on the committee and in the Parliament, to do all that we can to have the right statutory basis for the provision of appropriate staffing in health and care service settings

This is an ambitious piece of legislation that will provide a critical contribution to driving the necessary and important cultural and organisational change that we need to meet the challenges to and expectations of health and social care in Scotland—all with the paramount objective of providing improved, safe, effective and person-centred service and outcomes for people in Scotland.

I move,

That the Parliament agrees to the general principles of the Health and Care (Staffing) (Scotland) Bill.

The Presiding Officer: I call Lewis Macdonald to speak on behalf of the Health and Sport Committee, as its convener.

14:44

Lewis Macdonald (North East Scotland) (Lab): As convener of the Health and Sport Committee, I am pleased to report on stage 1 of the Health and Care (Staffing) (Scotland) Bill. Our report, which was agreed unanimously across all the parties, makes a number of what we hope are constructive suggestions to enhance the bill.

I thank all those who assisted the committee with our scrutiny, those who responded to our call for views and to our survey, those who gave oral evidence, and the many staff who participated in our plenary session at the NHS anniversary event in Glasgow in the summer. Many front-line health and care staff gave up time from their very busy schedules to engage with the committee. I record our thanks not only for their invaluable input, but—of course—for the very important work that they do.

The cabinet secretary responded to our report in writing yesterday. Her offer to keep the dialogue going is welcome, as are the commitments that she has made this afternoon on areas in which the Government intends to lodge amendments at stage 2. However, the response also indicated that the Government has yet to be persuaded on a number of areas and about a number of specific points that the committee made. However, persuasion is, of course, what committees are all about, so I will lay out some of the areas on which I hope that ministers will think again.

As the cabinet secretary said, the bill seeks to ensure more integrated workload and staff planning across health and social care. The question for the committee has been whether it will ensure that there are appropriate staffing levels to deliver high-quality care in health and social care settings. Part 1 establishes the guiding principles for staffing, which apply to the bill as a whole. The committee agrees that those principles should work to ensure equity and parity across all staff groups. Most of the evidence supported those guiding principles; few would argue with the aim of providing safe and high-quality services.

As has been said, the bill will replace existing methods for assessing the adequacy of staffing levels. Professional judgment is part of the current staffing methodology, but it is not yet part of the bill: the committee heard pleas that the input of professional judgment should be much more prominent in the bill. Workplace leaders are best

placed to take decisions about staffing requirements on the day, and whether there are enough suitably qualified staff on duty to meet patient needs.

Alex Cole-Hamilton: Does Lewis Macdonald agree that the professional voice is important not only when it comes to safe staffing, and that the best ideas can stem from the ward and be disseminated outwards as best practice for the country?

Lewis Macdonald: I absolutely agree with that. It is fair to say that the committee's approach to the bill and other things has been to seek the broadest possible input from professional groups. I hope that NHS management and the Government will take that approach, as we proceed with the bill. The committee agreed that the bill should reflect existing practice and give a prominent role to professional judgment.

We also concluded that the judgment of allied health professionals and social care workers, as well as that of nurses and midwives, should be considered. To achieve equity and parity across services, all staff groups that are involved in delivering care should be involved.

The Government's policy memorandum says that

"high quality care requires the right people, in the right place, with the right skills at the right time to ensure the best health and care outcomes for service users and people experiencing care."

We can all agree with that. Our report suggests that the bill should clarify the role of professional judgment, and strengthen the commitment to staff wellbeing in the provision of safe and high-quality services. I was therefore pleased to hear the cabinet secretary commit a few moments ago to lodging an amendment on that at stage 2. Many of our witnesses from the caring professions asked that those principles be made clear in the bill. In the committee's view, such changes would not weaken the bill; they would strengthen it.

Although the Government believes that the bill will support the desirable outcome of increased integration of health and social care services by providing a consistent framework for staff planning across the sectors, we heard considerable evidence about concerns that the bill could inadvertently have the opposite effect. Some witnesses suggested that the bill risks separating healthcare from social care and of not including significant groups of staff. That could imply that different expectations will continue to apply to different parts of a system that, in other contexts, the Government—as we all do—says should be seen as a whole.

We also heard concerns that the bill is very much process focused, which is at odds with the priority of the integration agenda to provide better outcomes for patients. We were keen to ensure that the bill's focus on process would not be at the expense of outcomes, so we stated our view that that should be in the general principles of the bill. The Government's response, accompanying the cabinet secretary's letter, said that including an outcomes focus in the general principles of the bill

"would represent unnecessary duplication."

I was surprised to read that. I am sure that ministers will think further about it before stage 2.

Jeane Freeman also mentioned Healthcare Improvement Scotland, which is undertaking work, as part of its excellence-in-care approach, on provision of information on expected staffing levels and actual staffing levels by ward. That is now happening in some places: the committee agrees that it is a good idea to roll out that initiative nationwide. Again, we encourage the minister and the Government to consider whether that could be done.

Part 2 of the bill will apply the general principles to national health service staffing in particular. Health boards are already required to do workforce planning and to ensure provision of high quality care. To support those duties, a suite of 12 workforce planning tools has been developed over the period since 2004. The committee decided that we should survey health boards to find out about use of existing tools, and we discovered that their use is patchy. Boards have been subject to a mandatory requirement from the Scottish Government to use the tools since 2013, but that has clearly failed to have the desired effect.

The bill would replace a "mandatory requirement" with a "statutory requirement": we asked the Government how that change would deliver compliance in the future. The cabinet secretary's written response this week noted that

"a number of measures are already in place to monitor Health Boards' compliance with their legal duties",

and it suggests that no change to monitoring will therefore be required. It is difficult to square that with the current inconsistency in compliance, so it would be useful to hear more about how a statutory duty will differ in practice from a mandatory requirement.

Although the workforce planning tools have been in use for up to 14 years, the committee heard concerns about levels of training. Witnesses were keen that staff be given dedicated time to attend training, rather than being expected merely to acquire expertise as part of continuous professional development. Again, it would be useful to know whether the Government agrees with that.

Part 3 of the bill relates to staffing in care services. The policy memorandum notes that the purpose of including care services in the bill is to allow the sector to build on and strengthen existing statutory mechanisms, in order that it can create a cohesive framework across all health and social care settings. The bill provides a power for the Care Inspectorate to develop workforce planning tools for application in care settings for which a need is identified and agreed.

Much of the evidence that we heard on part 3 of the bill questioned whether the bill is actually necessary in social care services, which are provided in environments that are very different from hospital settings. We recognise that that must be factored in to development of any new tools, but we concluded that the care sector should not be treated differently from the NHS. In both, we should expect enough suitably qualified staff to be present to deliver high-quality services. Patients and their families will expect no less.

The Government made it clear to the committee that the staffing methodologies in the bill are not linked directly to national workforce planning, although the "National health and social care workforce plan" is mentioned throughout, and has been mentioned by the cabinet secretary this afternoon. Witnesses were concerned about how the outcomes of the bill could be achieved without a firmer link to wider national workforce planning. If there is insufficient skilled labour available nationally to fill vacancies, health boards and care services may be unable to meet the requirements of the bill. We need to know, and they need to know, what would follow, if that were to be the case.

One concern that was raised was the possible skewing of resources away from social care at a time when the planning tools exist only in the NHS. Staff and other resources might be concentrated in the acute sector in order to meet the statutory requirements in part 2 of the bill, while tools are still under development for social care under part 3.

A similar issue was raised by allied health professionals, who were concerned that directors of finance could be put in an invidious position when it comes to deciding priorities: funding going to the nursing side, for example, at the expense of AHPs and multidisciplinary working. We need to ensure that those fears are not realised by ensuring that the essential role of AHPs is reflected in the legislation, particularly for the early years before part 3 of the bill comes fully into effect. An amendment at stage 2, as was suggested by the cabinet secretary today, would be widely welcomed.

The committee unanimously supports the general principles of the bill, while seeking clarification on the issues that we have raised and a positive response to the concerns that we highlight in our report. Many of the witnesses to our stage 1 inquiry were looking for reassurance that the Government is listening to their concerns.

I hope that the cabinet secretary will reflect further on our report, this debate and the concerns that were raised by witnesses, so that the bill can be made better and stronger at stage 2.

14:55

Miles Briggs (Lothian) (Con): I thank all the organisations that provided extremely useful briefings ahead of today's debate. The most valuable resource of any organisation is its people, and our Scottish NHS in no different. There are more than 162,000 NHS employees across Scotland, who work tirelessly day in and day out to deliver and support our health and social care services for the people of our country.

The question that they are asking is this: what will this bill do to help to support those people working in Scotland's health and social care services? I and the members of the Health and Sport Committee have been asking questions about that from day 1. I hope that the committee's report has been useful to the Government in trying to answer such questions—specifically, questions on the unintended consequences of the bill. For help to answer those, we need look no further than the Royal College of Nursing Scotland's member survey on staffing.

When RCN Scotland carried out a survey of its members last year, it received 3,000 responses from care and support workers across Scotland, who delivered some very concerning responses. Fifty-one per cent of respondents said that their last shift was not staffed to the level planned and 53 per cent said that care was compromised as a result of that; 54 per cent reported that they did not have enough time to provide the level of care that they would have liked to; 47 per cent said that they felt demoralised; and 61 per cent worked extra time—on average, 46 minutes—at the end of their shift. More than a third of respondents said that, because of a lack of time, they had to leave necessary care unprovided.

The most important evidence from the survey was in the statements from NHS staff and in their world view on the current workforce crisis in Scotland. I have picked out three points. NHS professionals said:

"The only reason we had enough staff today is because we had bank staff."

"We had enough staff for the patients. But in mental health we have attack respond situations and, no, for most of the night we wouldn't have been able to assist staff if a colleague had been under threat of physical violence."

"When you're short staffed, the workload is the same, you have to get round everything. You are constantly chasing your tail; you're anxious; you're rushed. Having the right staff changes that."

All of us in the chamber know and recognise that our NHS staff go the extra mile every day of the week to deliver the care that we value so much, but what tools can they have at their disposal when the level of risk to the safety and care of staff and patients in the environment and wards in which they work is unsafe? I want to outline some of the areas in which I think the bill needs to be improved.

In relation to process, the Law Society of Scotland stated that the stage 1 guiding principles were too general. It fears that there could be scope for subjective judgment, leading to the inevitable juggling and compromising of competing priorities. Some stakeholders were concerned that the bill could undermine care by focusing on process and narrowly defined settings, rather than outcomes. Certainly, what we heard at committee was that we need to make sure that our health service is outcome focused.

In relation to accountability, the bill places a general duty on health boards and care service providers to ensure that there is appropriate staffing and states that health boards, commissioners and providers will be accountable. A key concern that was raised with the committee was the need for greater clarity in the bill on where accountability will sit. If no one is named as an accountable officer, there is a risk that responsibility will be felt by the people who are running the tools, who will become exposed if adverse events arise. It is still not completely clear to many members how that will feed in higher up the NHS management structure.

Professional judgment is a key part of the bill that we should seek to improve, and we will be seeking to improve on that. Witnesses called for the input of professional judgment to be more prominent in the bill, and I welcome some of what the cabinet secretary said. It was felt that professionals should be involved in the process and that views should be taken at a local level, below executive and senior management level, as the committee's convener outlined. Although professional judgment is part of the new common staffing method, it is not included in the bill.

The Royal College of Nursing believes that it is essential that the bill enables the empowerment of nurses, and I agree with that. As the cabinet secretary has outlined, the bill presents opportunities, and I hope that we can realise those opportunities in order to empower our NHS staff and the staff who work in health and social care settings.

The bill aims to ensure that there are adequate staffing levels where health and social care are delivered. As Alex Cole-Hamilton said, the bill could provide a much-needed focus on workforce planning. The social care setting is a key area and the committee would like more clarity on how the bill will impact that area and how the tools will be developed and delivered.

Ahead of today's debate, I noted the concerns and reservations that were expressed by the Convention of Scottish Local Authorities, the Scottish Council for Voluntary Organisations and other organisations about the bill's proposals in respect of social care. Social care accounts for more than a quarter of the third sector's turnover, and 34 per cent of voluntary organisations in Scotland are involved in delivering social care-related activities. The provisions of the bill that relate to social care and the development and introduction of standardised workforce tools to the sector, which currently has no single governance structure and is made up of hundreds of diverse organisations, clearly represents a major challenge. I hope that the Scottish Government will work on that to build confidence and the support of the sector.

I welcome much of the Scottish Government's response, which the cabinet secretary outlined in her letter yesterday to the Health and Sport Committee. The "unintended consequences" of the bill have been outlined by many organisations ahead of the stage 1 debate and I hope that they will be addressed as the bill progresses through Parliament.

In conclusion, the Scottish Conservatives recognise that our health and social care workforce faces a number of key challenges. With or without legislation, unless we urgently resolve the staff shortages across NHS Scotland, safe staffing levels will remain a dream instead of a reality.

In her response to the committee, the cabinet secretary stated:

"This Bill is about workload planning not workforce planning."

However, for those people who work in our NHS and social care services, those are the same thing. We need to see progress in addressing the staffing challenges in our health and social care services.

Karen Hedge, the national director of Scottish Care, told the committee that the bill will not

"magically create nurses".

Therefore, we need to be clear that working to deliver a full staffing complement must be the priority of the Scottish Government and the Scottish Parliament.

The Scottish Conservatives support the general principles of the Health and Care (Staffing) (Scotland) Bill and we will work cross party to amend the bill as it progresses through Parliament.

15:02

Monica Lennon (Central Scotland) (Lab): I am pleased to open for Scottish Labour in the debate and I thank the Health and Sport Committee for its carefully considered report. From listening to the convener, Lewis Macdonald, it is clear that the committee went to great lengths to gather evidence and to scrutinise the Health and Care (Staffing) (Scotland) Bill. The committee's recommendations reflect that rich body of evidence and I agree that the Scottish Government would do well to remain open to persuasion, because there is clearly room for improvement. Some of the committee's recommendations were reinforced by the many stakeholder briefings that we have gratefully received ahead of the debate.

This has been a milestone year for health. This summer, the Parliament and the country came together to mark the NHS at 70: we had a lot to celebrate. Our health service has saved and transformed countless lives—everyone in the chamber will have a close, personal affinity to the NHS.

Moving forward, the integration of health and social care has the potential to be transformative, but we must get to grips with the underlying challenges in order to reduce the levels of ill health and health inequalities that persist. Under this Government, we have not yet seen enough progress on that front. The cabinet secretary said that we are living longer, but we are not yet living healthier lives and that matters because all of us have a right to health and want to live good, healthy lives.

That is a matter of urgency also because our health and social care services are struggling to cope. In her response to the committee's stage 1 report, the cabinet secretary says that the Scottish Government

"understands the pressure staff are facing".

We know that the cabinet secretary inherited the bill and I am not convinced that, given all the pressures facing the NHS, this is the bill that she would have wanted. However, as she is sticking with it, Scottish Labour will play its part in improving and strengthening it. We are eager to work with the cabinet secretary and her team in the widest terms possible.

However, as we debate the Health and Care (Staffing) (Scotland) Bill today, our focus has to remain on outcomes and the difference that the bill could make to the health and wellbeing of our constituents and our loved ones. Scotland's health and social care workforce is working tirelessly to provide the very best of care; it cannot work any harder and it is far from easy.

Miles Briggs spoke about nursing and we know that, according to the RCN, there are times when staff are not able to meet the needs of their patients because of staffing shortages, because of issues with the skills mix of teams and because of ever-increasing demands on services. In the past few weeks, I have seen that at first hand, because my mum has spent far too much time in hospital. None of us is detached from that; it is very real and it is happening now.

It must concern the cabinet secretary that Audit Scotland warns that the NHS in Scotland is not financially sustainable and that its performance has continued to decline. Today, we have had another extremely serious section 22 report on NHS Tayside. We have a health board that is facing perpetual financial crisis, and the buck stops with the Scottish Government.

Jeane Freeman: In order to ensure that we have the absolutely correct context, I am sure that Ms Lennon will agree that the section 22 order on NHS Tayside refers to the previous financial year and that, by the Auditor General for Scotland's own acknowledgement, the Audit Scotland report did not take account—because it could not at that point—of the medium-term financial framework that I published. In order to ensure that we are getting an accurate picture of the current state of play, perhaps we just need to add those extra bits of context.

Monica Lennon: I am glad that the cabinet secretary has put on the record that information about her medium-term framework, but there is no denying the fact that, again, we have a very serious report from the Auditor General. I am sure that the Public Audit and Post-legislative Scrutiny Committee will pick it up and scrutinise it in due course.

Currently, there are enough job vacancies in the NHS to fill staff numbers for two Scottish hospitals; the British Medical Association says that the true number of consultant vacancies is double that of the official figures from the Information Services Division; Scottish Care points to a shocking 32 per cent vacancy rate for nurses in social care; and the Royal College of Physicians of Edinburgh says that unless staffing gaps are resolved,

"safe staffing levels will remain a dream rather than a reality."

What will the bill do to address the staffing crisis? The cabinet secretary is clear that the bill is about workload planning, not workforce planning.

However, to put it simply, there must be enough staff available to deal with the high workload that NHS staff are experiencing. The Scottish Government has plenty of work under way—for example, there is the work that the Minister for Public Health, Sport and Wellbeing is focusing on in relation to alcohol and drugs—all of which is important because, to go back to my earlier remarks, the issue is prevention; and we have not seen enough preventive action to reduce the pressure on the NHS.

We hope that the bill is part of a new, wider, radical approach to health and social care workforce planning that is person centred. From Unison to the BMA, the message is loud and clear that just putting existing duties into statute will not in itself change anything. The committee stage 1 report highlights several areas of concern about the bill and the RCN highlights ongoing monitoring and the escalation of risks. If safe staffing levels fall below requirements, there must be a quick, clear and effective route to escalation of staffing levels; and those tools must work in real time so that any health professional who finds themselves on an understaffed ward can alert someone to the problem.

We have had dozens of briefings about the bill. For example, the Royal College of Physicians and the Royal College of Speech and Language Therapists highlight the importance of workforce planning supporting the new multidisciplinary models of care. The bill aims to give parity between health and social care by also setting out staffing duties in care services. However, we have heard from COSLA, the Coalition of Care and Support Providers and SCVO that they are all concerned that the bill is unsuitable for the care sector and could undermine integration. We have to be alive to those concerns, and I know that my colleague Alex Rowley will want to say more about that.

In conclusion, Scottish Labour welcomes all efforts to improve safe staffing and we support the general principals of the bill. However, the bill will not fix the health and social care workforce crisis by itself. NHS staff are facing burnout. I was grateful to the cabinet secretary for taking my intervention on that point; I know that she takes such matters very seriously. The social care sector needs to be overhauled because the conditions for many social care staff are simply not good enough.

Scottish Labour believes that health and social care should be focused on achieving the best outcomes—

The Deputy Presiding Officer (Christine Grahame): No, when you say, “In conclusion”, that means that you are concluding, not saying, “In conclusion, here comes another chapter”.

Monica Lennon: In conclusion, we must focus on the outcomes and we will work with the Government and others on amendments to secure that.

The Deputy Presiding Officer: I know that trick—I have used it myself.

15:10

Alison Johnstone (Lothian) (Green): The Greens support the general principles of the bill and we will vote accordingly at decision time. However, concerns have been raised by many groups, including the Royal College of Nursing, allied health professionals and COSLA, and we encourage the Scottish Government to give those concerns sufficient and careful consideration.

It is not surprising that there is a well-established link between safe staffing levels and the delivery of good-quality care. A study by Professor Anne Marie Rafferty found that both patients and nurses in hospitals with favourable patient to nurse ratios had consistently better outcomes than those in hospitals with less favourable staffing ratios: patients in the hospitals with the highest patient to nurse ratios had 26 per cent higher mortality, while the nurses in those hospitals were approximately twice as likely to be dissatisfied with their jobs, show high burn-out levels, and report low or deteriorating quality of care on their wards and hospitals.

That being the case, it is a concern that Scotland continues to experience serious challenges in the recruitment of health and social care staff. Audit Scotland reports that vacancy rates for nursing and midwifery staff rose from 2.7 per cent in 2013-14 to 4.5 per cent in the past year. Currently, 30 per cent of nursing, midwifery and allied health professional vacancies remain open for three months or more, which is an increase of a quarter on the previous year.

Although there has been a national increase in nursing and midwifery staff over the past four years, staff numbers in the year to March 2018 have fallen in some health board areas. Of the nearly 20,000 nursing and midwifery staff who responded to the 2017 iMatter staff experience survey, barely a quarter said that there were enough staff to allow them to do their jobs properly, with less than half saying that they were able to meet all the conflicting demands on their time.

The provisions in the bill may well play a role in ensuring that our health and social care services are appropriately staffed. The Greens welcome the guiding principles for health and care staffing: respecting the dignity and rights of care service users; ensuring the wellbeing of staff; and being

open with staff and service users about decisions relating to staffing.

The duty of health boards to ensure that staffing is appropriate for the health, wellbeing and safety of patients is also welcome. However, in her closing speech, will the cabinet secretary elaborate on whether it is the Government's intention to further extend that duty to cover the wellbeing and safety of staff? Below adequate staffing levels have an impact on staff as well as on patients—I know that we all agree on that.

The staff survey presented in the report "Safe and Effective Staffing: Nursing Against the Odds" paints a disturbing picture of the physical and mental toll on staff when staff levels are below what is needed. An accident and emergency nurse who was surveyed said that because of low staffing levels and lack of resources, they felt, "exhausted, stressed and dehydrated". That is consistent with the 51 per cent of Scots nursing and midwifery staff surveyed who reported feeling "exhausted and negative".

I ask the cabinet secretary to consider whether the terms "health", "wellbeing" and "safety" could be more explicitly defined. I draw her attention to NHS Orkney's submission to the committee at stage 1, which said:

"The perception of what is safe and what has been agreed may differ and we need to ensure that this doesn't in turn become an area of tension between staff and managers."

The duty on health boards to report on how they have ensured proper staffing and how they have followed the common staffing method, and trained and consulted staff is welcome. However, I ask whether that could be made more specific, to give boards additional requirements to report when the duty has not been met. Individual board reports would be welcome, but accountability might be improved if the Scottish Government had a responsibility to collate a report that covered all boards and lay that before Parliament. That would allow for transparency and consistency of reporting and therefore for better public scrutiny.

With others, the Royal College of Nursing seeks a wide range of amendments to the bill, and I look forward to working with all those organisations as we move to stage 2. I encourage the Scottish Government to continue to engage with those bodies on the issues that they raise. I will focus on enabling senior nurses to discharge their management duties fully by being non-case holding and on adding provision that will allow nursing staff to undertake continuing professional development.

The inclusion of the care sector is a crucial issue on which there is not yet a clear consensus. I note that COSLA released the strongly worded statement that the

"Scottish Government has yet to demonstrate the Bill will improve outcomes for people in receipt of care and for social care staff."

It is important to note that the bill's provisions will play only a small role in ensuring appropriate levels of staffing. Many of the briefings that we have received have raised issues about the scope of the bill. If it does nothing to address the supply and availability of trained staff, boards and social care providers alike will find it difficult to meet the duties that are placed on them.

The Royal College of Nursing has questioned

"whether this legislation can be implemented fully, and in a way which will improve the quality of care that patients receive, without significant investment—particularly in the workforce—and without recognition of the reality of current workforce pressures, and with the likely future increased demand on services."

I ask the cabinet secretary to outline what investment is being made in the health and social care workforce and where the bill sits in a broader strategy to address the supply of staff. I also ask her to consider the RCN's suggestion of a duty on the Government to ensure that there is a sufficient supply of nursing staff to meet current and future demand.

15:16

Alex Cole-Hamilton (Edinburgh Western) (LD): It is my privilege to offer the Liberal Democrats' support for the bill's general principles. I tread in the footsteps of my friend and colleague Kirsty Williams who, as a Liberal Democrat Assembly member, stewarded a similar piece of legislation through the National Assembly for Wales some years ago.

Whenever we talk about staffing, it is important to reflect on how much we rely on our NHS staff, our staff who work in social care in the community and our allied health professionals. Particularly at this time of year, they deserve the thanks of a grateful Parliament and a grateful nation.

When any committee is charged with looking at a bill, it is incumbent on it to ask the question that is top of considerations: is this needed? When I asked exactly that question of Sarah Atherton, who works for the Royal College of Nursing, I was struck by what she relayed of a conversation that she had had with a senior nurse on a psychiatric ward. Sarah Atherton had asked the nurse whether the ward was safely staffed the night before, and the nurse said that there were two answers to that question—the ward had enough staff to treat its patients but, because the system has to operate on an attack response basis, the ward was not safely staffed, as it would not have

had enough staff if a crisis had occurred. That epitomises why the bill is needed.

For years, we have ignored the anxieties and expertise of staff on the ground. It is a fair criticism of all parties that have been in government in this country that financial targets have often taken priority over safety. We probably all know of examples that mirror the experience of the psychiatric ward that I referred to.

The bill offers us the opportunity not only to fix the numbers but, I hope, to ensure that we get the right balance of skills and experience in every staff team in every care setting. Getting the right skills mix and the right number of staff has an empirical link to safer outcomes. We need more in the bill to link methodologies, tools and practice to outcomes and draw the golden thread right through.

That is why I was grateful to hear the cabinet secretary's remarks about strengthening the professional voice in the bill. We must listen to and act on the suggestions of those who are at the coalface. As I said in my intervention, innovation comes from the grass roots most of the time, and best practice is germinated in wards.

We need the staff voice, but we also need clear accountability—we have always regarded that as a slight gap in the bill. That accountability needs to be held at several levels, because when it is everybody's job to make sure that something happens, it suddenly becomes nobody's job to make sure that it happens. I endorse what Alison Johnstone said about the idea that senior charge nurses should be non-case holding, that they should have that strategic overview and that, as clinical leaders, they should not be included in the head count of a safe staffing cohort. Every care setting—whether that setting is acute, non acute or in the community—should be encouraged to catalogue and display their staffing levels, so that they can benchmark success and aspire to greater things. Having a staff member who is unencumbered by operational issues is vital to ensure that accountability.

We need to trust the expertise of our staff. We are blessed with some incredibly gifted staff. It is vital to recognise that correlation between staff wellbeing and patient safety. I fear that there is still scant detail in the bill as to how we will ensure that staff in cohorts within any care setting are themselves supported psychologically with regard to stress and stress management. There is a direct causal link to what we are doing through the on-going discussion in the chamber and in the Parliament's committees about whistleblowing to make sure that we support our staff, including supporting them to raise concerns.

When we talk about staff, we are not talking only about nurses. Initially, there was a myopic view that the bill was about only nursing. I thank nurses for their strengths and for the fact that they have driven the agenda, but they recognise that the bill has to encompass social care staff and allied health professionals. Each of those professions provides a vital and important part of every patient's care pathway. In particular, we talk about delayed discharge from hospital and the lack of social care provision. That care pathway can interrupt flow throughout the health service. Therefore, it is important that those professions that do not have methodologies that are as established as those of the nursing profession are afforded the space by the bill to grow those methodologies in their own toolkit, in order to interconnect with the methodologies of their multidisciplinary colleagues.

I made this point to the cabinet secretary in an intervention: as with the Child Poverty (Scotland) Bill, we cannot just legislate and make something happen. We can legislate for aspiration, but we must back that up with culture change and empirical policy change on the ground. We have to recognise that the bill will not end nursing shortages or the social care staffing crisis in our communities. Those problems will not be solved by the bill, but it is an absolutely vital part of the jigsaw for ensuring that we have sustainable, safe and attractive professions for people to enter and it is part of that drive to increase provision within those sectors.

Nor should attempts to deliver safe staffing in one sector come at the expense of another sector. The other point that I made in my intervention on the cabinet secretary was about ensuring that we do not just have a gold-plated service in a gold-plated safe-staffing culture in acute settings at the expense of community and non-acute settings. Those settings are equally vital in patient pathways. The bill is needed and it will enjoy the support of the Liberal Democrats tonight.

The Deputy Presiding Officer: We move to the open debate. We will have speeches of six minutes as usual, but there is a little time in hand for interventions, which I would encourage.

15:23

Emma Harper (South Scotland) (SNP): We are here in the chamber to debate and, I hope, agree to the general principles of the Health and Care (Staffing) (Scotland) Bill, as introduced by the Government. As deputy convener of the Health and Sport Committee, I agree with the general principles of the bill and I support the Government's motion today.

In June 2016, I was a new MSP for the South Scotland region when the First Minister announced, at the Royal College of Nursing

Scotland congress in Glasgow, the Scottish Government's intention to enshrine safe staffing in law. I was a new MSP and I had been providing direct patient care as a clinical nurse educator for NHS Dumfries and Galloway just a month before the First Minister's announcement. I enjoyed my work as a nurse educator and as a perioperative nurse. My 30 years of clinical experience in America, England and Scotland helped inform my scrutiny of the proposed bill at stage 1. Along with colleagues, I acknowledge the amazing work of the health professionals who provide care across health and social care settings 24 hours a day, seven days a week. The people who are professionals are truly amazing.

Since the bill's introduction in May, the committee has taken evidence from a range of stakeholders, including the Royal College of Nursing, allied health professionals, the British Medical Association and the Convention of Scottish Local Authorities, and I thank them for their input.

There are, of course, issues with the bill that need to be addressed, and I would like to bring members' attention to a number of them. I highlight the fact that the purpose of the bill is to set out the principles for ensuring that there will be appropriate staffing to deliver high-quality care to patients, clients and service users across a complex care system. The intention is to enable an evidence-based approach to be taken so that safe, efficient and person-centred care can be provided.

It is important to make it clear that although the bill does not focus on national workforce planning, it includes a focus on the development and application of workforce planning tools. The fact that some of those tools have not yet been developed was raised when representatives of the allied health professionals gave evidence to committee. One of my former colleagues in NHS Dumfries and Galloway made it clear to me that the bill must cover the whole multidisciplinary team. As the integration of health and social care progresses, we must make sure that all specialties that provide care, whether in primary care, acute care, the home environment or the community, are covered by the bill.

I am interested in the development of the workforce planning tools. We have heard that current common staffing methodology uses a triangulation approach and includes workforce tools on professional judgment, as well as specific tools that are aimed at areas such as the operating room or neonatal intensive care units. There is a difference between the delivery of care in rural south-west Scotland at Galloway community hospital and the delivery of care in the city centres of Glasgow and Edinburgh, where trauma services and the delivery of different kinds of specialty acute care are essential.

It was interesting to hear in evidence that the development of new tools might take up to 10 years, but I note from the financial memorandum that two further tools are in development and that more will be developed within five years. I would like to ask the Scottish Government what work is being done to speed up the process of developing appropriate tools—especially with allied health professionals—across multidisciplinary teams. As a former nurse who comes from a family of nurses, I know that it can take a long time to implement change in the national health service.

The fact that we are pursuing an integrated health and social care system means that we are having to take on board the fact that many different types of professionals support health and social care needs across Scotland. I welcome the briefings from the RCN, the Association of Anaesthetists, the Royal College of Physicians of Edinburgh and others. Yesterday, when I spoke to a senior RCN representative, I discussed the RCN's proposal to allow senior charge nurses not to have their own case load, which would allow them to focus on supporting the co-ordination of care, the management of staff and other time-consuming duties for which they are responsible. Alison Johnstone made similar comments, which I welcome. The importance of that approach applies in many healthcare situations.

I support that ask in principle, but I recognise that it is inevitable that there will be circumstances in which senior charge nurses will provide direct patient care—for example, in the operating theatre. I support the principle of charge nurses having no direct case load, and I would like the Scottish Government to explore options for that as we move forward with the bill.

I have been in an operating room in which everything was going smoothly until the patient's aorta was punctured during a straightforward minimal invasive surgery procedure. That is when the professional judgment of staff and their ability to react immediately to a fast-changing situation to save a life are paramount. Flexibility must be built into the legislation to allow immediate staffing judgments to be made. I welcome the fact that the bill takes into account the professional judgment tool that was described to the committee in written and face-to-face evidence from experts.

I welcome the bill, and I put on record my thanks to all those who attended the committee's evidence sessions on it and, indeed, all who have been involved in the process. I thank the Scottish Government and ask it to look at some of the issues that have been highlighted, including that of the workload of senior charge nurses. I look forward to participating in the progress of the bill.

15:29

Annie Wells (Glasgow) (Con): The importance of NHS staff goes without saying. At some point, most of us will have had our lives changed for the better thanks to the personal dedication of those providing high-quality care. We understand the immense pressure on staff, who work under extremely difficult conditions, sometimes to the detriment of their own health. That makes the bill all the more important.

Although the Scottish Conservatives support the bill in principle, we have concerns, which are shared by a number of organisations. As my colleague Miles Briggs said, we will look to strengthen the bill at stage 2 with amendments that focus on giving professionals a strong voice and making sure that decision-making data is robust and up to date.

I want to focus on the value that the bill places on the importance of staff wellbeing. It is clear that staff are being pushed to their limits and that staffing shortages are taking their toll. As we heard from Monica Lennon, in the past three years the number of NHS staff absences due to staff suffering stress has increased by nearly 18 per cent, resulting in more than 1 million working days being lost. In Glasgow, the increase in absences is even higher, at nearly 25 per cent. It is clear that staff are struggling to cope. I am pleased that the importance of staff wellbeing is a guiding principle of the bill and hope that the bill will, in some way, provide the basis on which we can improve the situation.

However, it is worth mentioning that the majority of witnesses raised concerns that the bill is being introduced at a time when the workforce is under pressure from a general recruitment and retention problem. For example, statistics show that hospitals are short of 2,400 nurses and midwives, and that NHS boards are in need of 750 more doctors.

Keith Brown (Clackmannanshire and Dunblane) (SNP): I am sure that Annie Wells has read the Health and Sport Committee's report and will realise that witnesses are concerned about the current and future effects of Brexit, and the role that Brexit plays in the recruitment issues that they face. Does she agree with them?

Annie Wells: The recruitment and retention problem has not happened overnight; concerns have been raised for quite a while. We have to look at the problem in the longer term, because it is not just in the past two years that we have needed 750 doctors.

In response to the bill, the Royal College of Nursing stated that it was important not to

"tie the hands of boards and put a duty on them to provide appropriate staffing if the supply, which is held by the Scottish Government, does not come through."—[*Official Report*, *Health and Sport Committee*, 11 September 2018; c 28.]

In the third sector, the Scottish Council for Voluntary Organisations has expressed concern that, given that 34 per cent of voluntary organisations in Scotland are involved in social-care related activities, additional duties placed on organisations cannot be considered in isolation of the resource provided. Linked to that, greater clarity must be given on where accountability lies—a concern that was noted by the Chartered Society of Physiotherapy.

A general duty has been placed on health boards and care service providers to ensure appropriate staffing, but if no one is named as an accountable officer, senior charge nurses and team leaders will be left exposed should an adverse event arise as a result of shortages in staffing. That view was shared by those in the care sector.

Unison Scotland highlighted the precarious situation of accountability, given the fragmentation of delivery of care services. Who will be responsible for safe staffing levels and reporting on them in the third sector? That will be especially difficult to answer when care provision is commissioned from a third party.

Although we support the principles of the bill, the Scottish Conservatives believe that professional judgment plays an important role. I was pleased to hear the cabinet secretary address that point. As the Health and Sport Committee has commented, it is believed that professionals have to be involved in the process, with views taken at local level to take account of the day-to-day dynamic staffing of health settings. Existing tools must be made to accommodate absence levels, differing staff and skill mixes and the needs of patients. The Royal College of Nursing stated that

"Without nurses of appropriate seniority ... exercising their professional judgement"

each day, safe staffing levels will not be reached, and the SCVO has said that, given its importance in delivering social care, it, too, must be consulted on legislative proposals.

As well as the need for staffing models that allow decisions to be made on the ground, there is a need for decisions to be based on the most accurate data. While they are in among the moving feast of real-time decision making on wards and across community teams, healthcare professionals need to be confident that they can trust data as being reliable and up to date. Only with that data can they make strategic decisions that enable safe high-quality care and services.

To finish, I again express my support for the bill's principles. Ultimately, the bill puts an existing

but enhanced workforce planning method on a statutory footing with principles that are "unobjectionable". We all want the highest-quality care being given to patients consistently across health boards, with the wellbeing of staff always in mind. At stage 2, the Scottish Conservatives will work on a cross-party basis to lodge amendments that seek to strengthen the bill, and I hope that some of the comments that are made today will be taken on board.

15:36

Keith Brown (Clackmannanshire and Dunblane) (SNP): The aim of the bill is to be an enabler of

"high quality care and improved outcomes for service users"

of the health and care services by helping to ensure appropriate staffing for their care. It is important to state that again, because although we started off with what I thought was a very balanced and fair account of the committee's work from the convener, Lewis Macdonald, the debate has since gone into a number of related areas—and quite legitimately so. It is therefore important that we bear in mind the bill's purpose.

For me, this is the latest development of the efforts that we have made—and by "we", I mean everybody—to try to drive high standards in the health and social care sectors and to make best practice the standard to be achieved across the board. The bill's policy memorandum states:

"The aim of the Bill is to provide a statutory basis for the provision of appropriate staffing in health and care service settings, thereby enabling safe and high quality care and improved outcomes for service users. Provision of high quality care requires the right people, in the right place, with the right skills at the right time to ensure the best health and care outcomes for service users and people experiencing care."

Although we have in general heard support for the bill's general principles, I have found it a little odd to hear some witnesses, when asked whether they supported the bill, say that they did not and that they did not see how it could be improved. I was particularly concerned to hear that view from people whose focus was, quite rightly, on the needs of the care sector. To my mind, the bill presents an opportunity to have the right staffing, so it strengthens the arguments of those who want staffing in the care sector to be improved. I am not sure on what basis people would not want to support that. They could, by all means, seek to improve it, but they should at least support the aim.

The aim is that, at a strategic level, staffing in our NHS and associated social care and care home provision will be planned to maximise the effectiveness of available resources, to deliver for clients and to ensure that their experience of health and care is always the paramount consideration. The systems that we put in place must help to ensure that practice in health and care in Scotland is the best that it can be and that the patient experience is positive.

With regard to recruitment, it is evident that there are pressures because of Brexit and that they have been building for some time. I cannot evidence this from what we heard, but I think that those pressures are more acute in the care sector than in the health sector. However, they are evident in both, and they are building day on day, week on week, month on month. Brexit is a substantial issue as far as recruitment is concerned; indeed, paragraph 206 on page 34 of the committee's report says:

"Brexit uncertainties mean that it is challenging to meet the existing requirements and staffing establishments currently set by health boards and social care providers."

The bill is intended to deliver a number of things. For example, at its heart is the promotion of safety in the health and care sector—and by "safety", I mean safety for clients and the health and care staff. The mechanism for delivering that is the creation of a statutory duty with regard to the staffing levels to be applied to territorial and special health boards, but that will require appropriate staff planning and risk management. In the recent round of consultation on the bill, the committee asked stakeholders for their views on how the bill could best achieve that aim. In its submission, my own local health board, NHS Forth Valley, stated:

"The positive outcomes for patients and staff must be at the heart of the decision making process. The workforce tools will run consistently with health and social care boards having to act upon the results."

NHS Forth Valley also proposed the need for a formal reporting structure to be part of any processes, and was among a number of consultees who stressed the need to clearly identify who is responsible for undertaking that. I have some sympathy with that. The one thing that I would say, however, is that, in relation to talk of outcomes, sanctions and targets, many of us stand up in this chamber and talk about the problem with bureaucracy in the health service, but there is a real danger that we could end up creating new forms of bureaucracy through what is being suggested. It is important that, as we go through the different stages of the bill, we bear that in mind.

Clackmannanshire and Stirling health and social care partnership also commented on the general principles of the bill, stating that it welcomed

"the guiding principle of a rigorous transparent approach to decision making about staffing in health and social care."

That is what we should be aiming for. If, at the end of that process, people can point to deficiencies or ways in which the situation can be improved, the bill will have achieved its purpose. For example, Clackmannanshire and Stirling health and social care partnership also said that

"There are concerns regarding the additional expectations on planning and commissioning departments",

but that should be a good thing. Additional expectations on commissioning departments should help to address some of the perceived issues in relation to staffing in those departments.

The concerns that have been raised are entirely fair to raise at this stage of our consideration of the bill, but I welcome the general acceptance in the many consultation responses that were submitted that the principle and direction of travel of the bill are right. In our detailed consideration of the issues, we must take due cognisance of those views.

The points that were raised in the briefing on the bill that was sent to MSPs by the Royal College of Nursing were valuable, and, given the central part that the RCN's members will play in dealing with the legislation when it is enacted, I think that it is certainly worth considering the points that it makes. It suggested six tests—before Labour MSPs get too excited, they have nothing to do with Brexit. First, the RCN is looking for positive outcomes and for staff to be put at the heart of decision making. The bill seeks to do that; it tries to ensure that professional judgment—some have called it objective judgment—can be brought into play. We are looking for the professionals to make judgments. That is a vital part of what we are doing, and I believe that the cabinet secretary gave us assurances today and when she appeared before the committee that suggest that that will happen.

I welcome the general principles of the bill and I welcome some of the points that have been made by members. It strikes me that we have a good basis on which to take the bill forward, not least because of the assurances that the cabinet secretary has given in her response and because she has said that she intends to listen to what is being said as we move through the process. With that kind of co-operation and constructive engagement, we can get the right bill at the end. I am happy to support the bill.

15:42

Alex Rowley (Mid Scotland and Fife) (Lab): I begin by congratulating and thanking Lewis Macdonald and the Health and Sport Committee for producing this detailed report, which will be useful as we move into stage 2.

I know that the Cabinet Secretary for Health and Sport, Jeane Freeman, issued a response to the report yesterday evening. I have not had a chance to read it properly yet, but I think that it, too, will be useful.

I take Keith Brown's point about focusing on the purpose of the bill, which he says is about appropriate and safe staffing. However, it is a bit like the emperor's new clothes: if we do not have the staff, it will be difficult to ensure that staffing is appropriate and safe. The situation reminds me a bit of what sometimes happens with legislation. For example, we can legislate to give people a treatment guarantee, but we know that having a treatment guarantee does not guarantee people treatment when they need it. That brings into question the very purpose of legislation. We need to ask that question in terms of this bill and, perhaps, some other bills that are making their way through Parliament.

I know that the Royal College of Physicians raised a few issues about the bill. It says that legislation alone will not fill the rota gaps and vacancies in the workforce. The recognition in paragraph 97 of the policy memorandum that there are currently

"significant challenges in recruitment in both health and care service settings"

needs to be addressed.

Jeane Freeman: I am sure that Mr Rowley will acknowledge that I have never, at any point, said that the bill will automatically by itself produce the numbers of professionals across health and social care that we need. What I have said is that it is an important additional tool to help us workforce plan as well as we can. Getting the information via the application of this legislation will allow us to ensure that we have robust evidence that will enable us to identify how exactly we should continue to increase the numbers of people we have in training in nursing, medicine and allied health professions. It is one of the tools that we have; it is not a magic bullet that will automatically fix the problem.

Alex Rowley: I think that Monica Lennon acknowledged that when she opened for Labour and said that although we support the bill in principle, we need to do quite a lot of work on it. Some serious questions have been raised by the third sector, by COSLA and by others that need to be addressed going into stage 2.

Nevertheless, I am sure that as parliamentarians we all know that our constituents are asking what we are doing about staff shortages to ensure that people are guaranteed the healthcare that they need, when they need it. For example, in Fife, there are seven GP practices that are registered as being in difficulty or in high-

risk situations. NHS Fife says that it cannot recruit the general practitioners. There are practices that are having to close their lists and 16 practices are full. That is not just about accessing GP services, as the cabinet secretary knows; it is about accessing a whole range of community health services as part of a holistic health service. Those services are struggling right now; my constituents are asking me, "What are you doing about that?" and I ask myself, "Where does this legislation provide that support?"

We need to be honest with the public and we need to start addressing the big issues in the health service. COSLA makes a point about social care. By the way, COSLA has produced a two-page briefing that is highly critical of the bill, and we need to address that. COSLA states that the bill is poorly timed, as

"The social care workforce is ... experiencing challenges in terms of recruitment and retention."

We need to look at social care. Monica Lennon spoke earlier about 70 years of the NHS. In 2020, the NHS will be looking very different from when it was established back in the late 1940s and I do not think that we have asked what a modern-day NHS in Scotland looks like. Part of the answer is, of course, about social care and that is why we would not necessarily sign up to what COSLA has to say about social care being separate. However, the fact is that social care is provided through local authorities and health boards; it is provided through the third sector, and that is why we have so many third sector organisations coming in here with concerns; but it is also provided through the private sector and there are major problems in recruiting for the social care sector because of lack of job security, poor pay, and poor terms and conditions.

What would a national health service look like in 2020? A national health service is not just built around hospital buildings; it is also about caring for people in their own homes. Why should the social care part of the workforce be on the minimum wage or the living wage when other parts of the workforce get more decent pay, have decent terms and conditions and have job security? What does the workforce of the NHS look like moving into 2020? Should all those social carers be part of the health service or are we going to allow the modern health service to be split, with a private sector provision that pays lower wages and has poorer terms and conditions?

We need to invest in our workforce and we need to ask some fundamental questions about what that workforce looks like. Labour will work with the cabinet secretary on this, but we think that we need to be bolder and more radical in considering what a modern health service in Scotland should look like.

15:49

Sandra White (Glasgow Kelvin) (SNP): I thank my fellow members of the Health and Sport Committee, the witnesses who gave evidence and, of course, the clerks for their guidance to me and others and the hard work that they put in to produce the stage 1 report.

The bill's remit is intended to cover staff planning in health and social care services, with the aim that staffing in both sectors is organised and planned to ensure that providers have appropriate staff in place to enable them to deliver safe and high-quality care. The safety of staff is of course paramount, too.

Alex Cole-Hamilton and Emma Harper said that, at the beginning of the process, the RCN was seen to be the driver of the bill, but it was quickly recognised that the bill is not just about acute services; it is about all health and care providers, which all have a part to play in furthering the integration of health and social care in particular, which is very important. I thank members for raising that issue and I thank the RCN for recognising that the bill does not just cover acute care.

I will concentrate on the integration of health and social care. I note the concerns of COSLA and I picked up what Alex Rowley said about them. However, the COSLA briefing says:

"The Bill is a potential threat to the integration of health and social care."

It is rather sad that COSLA used that as a headline. I am sure that the committee, the cabinet secretary and the minister will look at that issue.

The integration of health and social care is paramount if we are to get the healthcare that we want, which every other member has spoken about. The bill is not just about acute care, and we should not be focusing on acute care; we need to look at integration. Alex Cole-Hamilton and the cabinet secretary said that we need to see a culture change. That point was raised by witnesses at the committee, too. This debate about the bill could be the starting point for people to listen to the argument that there should be cultural change within the various providers.

I turn to the evidence that we received. I thank the cabinet secretary and the Scottish Government for their responses to the committee. In paragraph 194 of our report, we state:

"We can see the attractions and advantages from treating all parts of the delivery of health and care in the same manner. We can see no rationale to ultimately treat this sector any different from the NHS, both are providing services to the public and the public should be assured they and their relatives are being looked after adequately with care, professionalism and dignity."

The Scottish Government's response to that states:

"It is our intention that the development of any new tool and methodology would be carried out in a similar manner to the way in which the existing tools were developed in health. A clinical reference group is established prior to the development of any new tool. All Health Boards are invited to contribute to the clinical reference group."

I hope that that allays some of the fears that COSLA raised about other allied health professionals.

Integration is one of the great things that we can move forward with the bill. I know that the bill is a work in progress, but that is one of the areas that we should cover. I am perhaps being a little selfish in mentioning that, because I am the convener of the cross-party group on older people, age and ageing. There has been lots of interest from our members and other organisations in the integration of health and social care, particularly the provision and staffing of community care and care homes.

In fact, the cross-party group will be hearing from Brian Slater, who is head of partnership support in the health and social care integration directorate of the Scottish Government, at our meeting next week. I am sure that members of the group will be interested to hear what was said in this debate and to hear what Mr Slater has to say about the progress that is being made in integration of health and social care. I know that members will want to find out the implications of the bill and what levels of staffing will be, particularly given that we are dealing with an ageing population, with the pressure that that puts on the system. It is important that we look at that issue.

As I said, I understand that the bill is still at stage 1 and so is very much a work in progress. I look forward to seeing how it progresses through Parliament. I hope that when we get to stage 3 we will all agree with it and that COSLA and others will say that integration is really important and that the bill is not just about acute services but about all provision of health and social care.

15:55

Edward Mountain (Highlands and Islands) (Con): I join my colleagues in supporting the Health and Care (Staffing) (Scotland) Bill in principle. I thank the committee at the outset for its in-depth report; I know how much work goes into such reports.

I would like to reiterate a word of caution for the Government that has already been raised this afternoon. To paraphrase the Royal College of Physicians of Edinburgh, we cannot legislate staff into existence. Making new laws can identify work frameworks and targets for staffing. However, frankly, we need action on recruitment to make the bill meaningful.

Let us look at another bill in relation to this issue: the Patient Rights (Scotland) Act 2011, which sets down a 12-week treatment time guarantee in law. That is workload planning, or it should have been when it was established. The problem is that, for many of my constituents in the Highlands, that law is broken on a weekly if not a daily basis. I mention in passing that we found out this week that two constituents have waited 72 weeks for chronic pain treatment in NHS Highland. Frankly, that is not acceptable.

The Scottish Government must accept that legislation alone will not reduce waiting times or resolve the recruitment crisis that is affecting our NHS. The bill in itself will not ensure greater delivery of service.

The bill can make a difference, but only if it is used as part of a wider range of measures to tackle workforce planning across our NHS. If it is to make the difference that it needs to, it needs to be strengthened significantly. We have already heard from my colleague Miles Briggs that the Scottish Conservatives will lodge amendments to give professionals a strong voice in the staffing process, based on workloads, and to ensure that the decision-making process data is robust and up to date—that is critical. Why do those amendments matter? On this side of the chamber, we believe that hard-working doctors and nurses know better than anyone when it comes to safe staffing levels to deliver the service that is required. I believe that their voices have often been ignored in the past.

I will give an example of where workforce planning is failing. In August 2017, more than 50 doctors and consultants signed a letter to the board of NHS Highland stating that

"the crisis in radiology staffing, especially acute in the Highlands, has reached an unprecedented level."

You would think that that would be a clear warning about workforce planning and delivery. A year on and the situation in NHS Highland is far worse; there is no substantive interventional radiologist in post. That means that patients need to travel to NHS Tayside and NHS Grampian which, frankly, is unacceptable. It is a failure of workload planning that has come about because of poor workforce planning.

Keith Brown: Edward Mountain commended the work of the committee and the witnesses who gave evidence to it. Brexit was one of the issues that were raised by witnesses, particularly—if I recall correctly—in relation to radiographers. Does he concede the point that Brexit is having a

detrimental effect on recruitment in the NHS, especially in rural areas of Scotland?

Edward Mountain: It is very easy to find something that is going on at the moment to blame for the problem, but the problem goes back a lot longer than that—it goes back to poor workforce planning, probably up to 10 years ago. If the First Minister were here in the chamber, I would ask her about that as well.

There has not been enough planning either by the Government or—in the case of my constituency and region—by NHS Highland to resolve the problem. From speaking privately to healthcare professionals, which I do almost weekly, I know that they have come to the same conclusion as me.

I hope that the bill will address the need to have safe staffing levels to deliver the services that are required. It is a question of which we put first. I believe that doctors and nurses know what is needed to provide the services that are required. The problem is that they are often constrained by those in administration, who believe that they know better. We know that, when staffing levels are low, pressure on existing staff increases, which leads to unrealistic expectations that the same service can be delivered with reduced numbers—it cannot. That often leads to unrealistic demands that become overbearing and unachievable, causing staff to feel bullied and undervalued, with the result that they leave.

It has become clear that that leads to a problem with recruiting. For example, the orthodontic department in NHS Highland has not functioned for two years, and the oral and maxillofacial surgery department has not functioned for three. Those are definitely needed and the situation has been identified as a problem, but there is no one to man them. That creates a perfect storm, and I am worried that the bill in its current form will not address that. That is why it needs to be amended, with strong input from those on the ground and not just those in offices.

The bill also needs a provision to protect staff welfare. Not to do so would be a failure. Certainly with my colleague Miles Briggs and other Conservative colleagues—and I hope with members across the chamber—I will be looking to find a suitable amendment that takes that into account.

I support the bill, knowing that it does not go far enough at this stage; with amendments, it can perhaps do that. At the moment, it is not sufficiently aspirational or inspirational, but there is a good opportunity with proper amendments, which should come from across the chamber, to make it both of those things.

16:01

David Torrance (Kirkcaldy) (SNP): I thank everyone who has contributed to the process—in particular, the committee clerks for all their hard work, and the healthcare professionals and representatives who gave up their valuable time to participate in our evidence sessions.

NHS Scotland's workforce is growing, and the demands on our health and social care sector have never been greater. We need to be flexible in relation to those demands. We have seen a 48.3 per cent increase in consultants, an increase of 5.7 per cent in training places for nurses and midwives, with a further 2,600 training places to be created by 2021, and overall workforce growth of 9.5 per cent since 2006. Currently, staffing levels are set locally by health providers. The bill does not seek to change that by prescribing minimum staffing levels or fixed ratios; rather, it will continue to support local decisions, which is a flexible approach that gives the ability to redesign and innovate across disciplinary and multi-agency settings.

The issue of staffing levels is not new. The Royal College of Nursing states in its staffing guidance that the question

"What is the optimal level and mix of nursing staff required to deliver quality care as cost-effectively as possible?"

is a perennial one. In order to forecast the workforce that is required to meet future care needs, workforce planning needs to consider the changing balance between types of care and the anticipated different models of delivery. The bill will provide a consistent process with validated workload and workforce planning tools, which will support our healthcare workers as they continue to provide world-class care to patients.

It is widely recognised that, although it has since 2013 been mandatory for health boards to utilise the tools and methodology, there are inconsistencies in how tools are applied and the extent to which the existing methodology is utilised to make informed decisions about staffing requirements. Enshrining the process in law will help to ensure a more consistent approach to staffing across all service areas, which in turn will contribute to better outcomes for patients and provide public assurance that the right numbers of staff are in place to deliver person-centred care.

I welcome the comments of Ann Gow of Healthcare Improvement Scotland, who stated during one of the committee's evidence sessions:

"It really should not matter where in the social sector people are looked after: they should be entitled to good care and high-quality outcomes, and to an assurance that the right levels of staff will be in place to look after them."—[*Official Report, Health and Sport Committee,* 25 September 2018; c 3.]

It is vital that we have the right number of staff, with the right knowledge, in the right place and at the right time to provide safe and effective care.

I thank Helen Wright, who is NHS Fife's executive director of nursing, for taking the time to share her thoughts about the bill directly with me. The most important people in the process are those who work in our health and social care services. It is imperative, if we are to deliver successfully a robust and sustainable statutory framework, that staffing methods are profession led and developed in collaboration with the sector.

The safety of patient care must be paramount, so we have to focus on delivering high-quality care through a systematic and responsive approach to determining staffing levels. An effective and stable staff team is the backbone of high-quality care. An objective evidence-based statutory process that builds on the current model, integrated with professional human judgment, will better equip services with tools that are flexible and can take into account the varying needs of the sector, without becoming an obstacle to either integration or innovation, thereby restricting the opportunity for varying standards of care to exist across different services, or in different areas of a service.

A number of members have mentioned the difficulties of recruitment in the health and social care sector, so I consider it important that I highlight today the current threat to the health and social care sectors from Brexit. At this point in time, it is anything but certain that there will be business as usual beyond next March, because the invaluable contribution of European Union workers all across Scotland is being jeopardised by the ill-conceived and short-sighted immigration policies of our United Kingdom Tory Government. Figures show that there are 26,000 people from the European Union working in health, social care and public administration in Scotland.

Miles Briggs: As David Torrance knows, the committee also heard concerns about the policy of new recruits potentially being sent into child social care instead of adult social care, and the impact on workforce planning that that has had. We have also heard that Nicola Sturgeon's spectacular error of judgment in cutting the number of training places has had an impact on our health service. Would he like to highlight those points as well?

David Torrance: Brexit is having that impact right now as we see, for example, a UK transplant surgeon who has performed more than 1,000 operations leaving and citing Brexit as the problem. When we see the number of specialist doctors dropping to an eight-year low because of Brexit, we know that we have real problems right now and that there will be more problems in the future.

We have already seen that Brexit is having an impact on recruitment and retention of EU nationals and, as the Brexit shambles continues, it will have very real and far-reaching implications for health and social care. The contribution of EU nationals to our workforce must not be underestimated. Our health and social care sectors will both face a considerable shortfall if there is restriction of EU migration. Changes to the residence rights of EU nationals will also have a significant impact on the sustainability of our health and social care sectors. We have long relied on EU nationals across all parts of our healthcare system: as the demands on our services increase, we will continue to need them in the future. Brexit is a very real threat to the health and social care sector that cannot be ignored, as uncertainty hangs over adult social care, which puts more stress on services.

In conclusion, I thank everyone who has been involved in the committee's work. I fully support the principles of the bill.

16:08

Anas Sarwar (Glasgow) (Lab): I start, as the cabinet secretary and many other members have done, by thanking all our NHS and social care staff who continue to go above and beyond in increasingly difficult circumstances. I offer a sincere "Thank you" to each and every one of them.

However, our thanks are not enough: those staff need more. Staff representatives have made it clear that they are under extreme pressure. They feel that there are too few of them to deliver the care that they would like to give their patients, and they fear that patient care is being compromised because of a lack of staff. In short, they feel overworked, undervalued and underresourced.

At the same time, while public appreciation for the NHS and its staff is rightly high, it is also the public's number 1 concern. I want to say at the outset that I accept that the problems are not of Jeane Freeman's making, although she must accept that her Government has been in power for 11 years and that she now has responsibility for fixing the problems.

We support the principles of the bill, but I believe that it needs major surgery. I also sincerely believe that the bill would have been a very different bill indeed if the cabinet secretary had designed it from the outset. She has said that the bill is about workload rather than about workforce planning, but I think that the two are interconnected. If we do not have adequate levels of staff, that puts an increased workload on existing staff, so I would like the bill to be more than a public relations exercise. I am sure that that

aspiration is shared by the cabinet secretary. We have to accept that the bill will provide not one extra member of staff and will not, in itself, solve the workforce crisis.

I know that the cabinet secretary does not like the term "workforce crisis", but we have to accept reality. In our NHS, we are short of 3,500 nurses and midwives, 540 allied health professionals and almost 400 consultants. NHS staff lose 1 million days a year to stress, and we spend £100 million a year on medical locums and £25 million a year on private nursing agencies. We have to be honest: if that is not a crisis, what is?

What we need, alongside the bill, is a credible and deliverable workforce plan, sufficient training places and a recruitment and retention strategy. We need to look at how we can bring the vacancy rate down, how we can reduce pressure on existing NHS and social care staff, and how we can help to boost their morale.

We also have to accept a fundamental issue and problem. We cannot magic up the people—3,500 nurses and midwives, 540 AHPs, 393 consultants and more. In the acute sector alone, we are short of almost 5,000 people. If we were to add the social care sector, that would be many more thousands, on top. We will not find the 5,000-plus people whom we need right now, so we have to have an honest and serious conversation about what we can deliver, how we can deliver it and how we will find the right skills mix to deliver an NHS that is fit for purpose.

I want to give some practical suggestions about additions that I would like to see to the bill, but first let me emphasise the point that Alec Rowley made. This must not become like the Patient Rights (Scotland) Act 2011, which is all great in principle and we all agree on it, but which in reality does not fit the word "guarantee". That is why the bill requires some serious amendment.

The first amendment would concern safe wards. I note that the word "safe" is no longer in the title or the bill. Who decides whether a ward is safe and what happens when a ward is not safe? When a ward is not safe, the ward manager has a decision to make. They can employ a member of staff straight away, but they more often than not turn to agencies, which could lead to increasing agency fees. They can shut the ward—I doubt that that is what we would want—or they can close beds.

If a ward is judged to be safe, but is in a difficult situation, or it is judged to be unsafe but continues to operate, that poses severe risks for existing NHS staff. If we look at the example of the Bawa-Garba case, we see that staff are under increased pressure and are worried about the implications of an adverse incident and about who will be held responsible. We need to define what is "safe" and we need to build into the bill protections for staff.

We also need more robust data. What data will be made available through the bill to allow greater scrutiny by Parliament and greater public scrutiny? I have already mentioned agency staff. I think that the bill should go further: we should look to cap agency fees. I am not talking about the overall amount that a health board can spend on agency staff, because that would have unintended consequences, but about how much an agency can charge for a shift or a board can pay for a shift.

Let me give you some examples. We have heard in the Public Audit and Post-legislative Scrutiny Committee that there are examples of medical consultants being paid up to £400,000 in a single year, and we have heard from Audit Scotland that, on average, a full-time equivalent agency nurse costs three times what an NHS nurse costs. If we connect those costs, that means we can have one agency nurse for three NHS nurses and one agency consultant for four NHS consultants. The cabinet secretary should look seriously at an amendment to the bill that would cap how much an agency can charge and how much a health board can pay for a shift.

We also need to go further on scrutiny and sanctions. I do not mean financial sanctions; I am talking about accountability. What sanctions can be imposed on health boards? It should be written into the bill that health boards must publish when they fail to meet their obligations, and there should be a commitment that, if the intentions of the bill are not met, the cabinet secretary—whoever it is at the time—should come to Parliament to give a detailed statement about why the intentions have not been met and what steps are being taken to address that.

Finally, greater co-ordination with social care is needed. I accept COSLA's concern about social care being separate: if we are truly to talk about integration we cannot isolate social care. We have to be careful not to go back to thinking about just doctors, nurses and midwives, but to recognise that we need a multidisciplinary team—especially if we cannot find adequate numbers of doctors and nurses. How do we build into the bill greater protection for the multidisciplinary team?

All those matters need explanation by the next time the bill comes to Parliament. I hope that this will be an opportunity for the cabinet secretary to work with other political parties to deliver a truly transformative bill, so that we have an NHS that is fit for purpose for the future.

16:15

Alex Neil (Airdrie and Shotts) (SNP): It is good that we have general agreement across the chamber on the principles of the bill, and that there is wide recognition that the role of the bill is not to solve the problem entirely but, as the cabinet secretary rightly said, to be an additional tool in the box to help solve the problem of planning and implementing a workforce development plan.

There has been a lot of talk about acute services and the care sector, but I emphasise that the bill also covers the primary sector. That is important because 90 percent of all patient contact with the health service is through the primary care sector and because we are, quite rightly, planning—and I think that there is cross-party support for this—to shift the emphasis from acute care to preventative care, primary care and social care in the community.

Some of the ideas come from Alaska, which I mention not only because it is the source of a number of the current reforms that we are implementing in the primary care sector, but because there has been a very successful reform of the entire health service there. As a result of the reform, Alaska has closed down some of its hospitals. It now provides so many services in the primary care sector that demand on the acute sector has reduced to the extent that it no longer needs as many hospitals. That is clearly a good thing, as it is never good to have to be treated in hospital. The chances of catching an infection and all the rest of it, even with a very successful patient safety programme, are still much higher than they are in the primary care sector. The point is, that we should not plan the workforce by looking at today's vacancies and deciding that the workforce plan must replace certain people and find people for certain vacancies, although that is part of it. What matters is the demand forecast for the future profile of services that are going to be required. We should base our workforce plan on our estimates of future demand, not on existing vacancies.

Alex Rowley: I am aware of the Alaskan model because Councillor Andrew Rodger, who was on the board of NHS Fife for many years, championed it. However, the difficulty is the transformation that is involved in getting the resources to the community side—into primary care—while still maintaining acute services. The Government's idea that the money will somehow just go across and the demand will fall off has not happened. Does the member agree that there has to be bridging in place to provide more resources for community care in order to take the pressure off acute services?

Alex Neil: That is a very fair question. I will make two points. First, the provision for set-aside money in the Public Bodies (Joint Working) (Scotland) Act 2014 has not worked as well as planned and we all know the reasons for that. It was intended to be the modern equivalent of the bridging fund that was used when the Victorian so-called asylums were emptied and people were treated for mental health issues in the community. Secondly, if we get every penny of the Barnett consequentials that we are supposed to get, as a result of the very substantial increase in health spending that is planned for south of the border, I imagine that a fair proportion of that will go into building up the primary and community care sector facilities that we need in order that we can shift the balance from the acute sector to those sectors.

I take the member's point and I think that the set-aside money approach has not worked as well as the bridging funding method that was used when mental health services were modernised. I am sure that the Cabinet Secretary for Health and Sport will look at the issue for the future.

However, there is no doubt at all that we have to look at the profile of what health will be like in three, four, five or 10 years' time. There was an announcement two weeks ago by the health secretary and the University of Glasgow about a brilliant £15 million joint project that will look at how artificial intelligence can improve prevention and diagnosis. Part of that will be about being able to identify, in the not-too-distant future, what disease people have before they show the symptoms of having it. The manpower requirements for that kind of diagnosis are completely different from the manpower requirements for how we diagnose today. In fact, the first priority for the future will be to get people who can operate artificial intelligence. I imagine that there is nothing in workforce planning at the moment for artificial intelligence engineers and the like. However, that project is a good example of where we should be thinking of a workforce plan that is not narrowly about filling existing vacancies, but about providing for the kind of 21st century, leading-edge health service that we are planning.

I should say that Scotland is ahead in the application of artificial intelligence and associated technologies to the health service. I hear all the concerns, moans and groans on a daily basis, but sometimes we have to start shouting about the things that we are doing really well in Scotland. Being ahead on artificial intelligence technologies is one of the huge benefits that we have in our health service, and I believe that that £15 million project will transform things even more. That is how we must think about the workforce, because the workforce in five years' time in terms of numbers, locations, job descriptions and training requirements will be completely different from what it has been in the past five or 10 years, and I

think that we are all agreed that we need to plan accordingly.

The bill is an additional tool for the health secretary and the health boards to help us get it right in both the primary and acute sectors. We can never be absolutely accurate in workforce planning—anybody would tell us that—but I am sure that if we do it on the basis that I have suggested and the direction of travel is right, we can get it as near as damn it to right.

16:22

Bill Bowman (North East Scotland) (Con): I welcome the Health and Care (Staffing) (Scotland) Bill in principle, but it should be acknowledged that there are important points to raise about it. I suspect that I might repeat some points that have already been raised in the debate.

In its programme for government 2017-18, the Scottish Government committed to introduce a safe staffing bill during the 2017-18 parliamentary year to deliver on the commitment to enshrine in law the principles of safe staffing in the NHS. That commitment resulted in the introduction of the Health and Care (Staffing) (Scotland) Bill, with its aims of enabling safe and high-quality care and ensuring better outcomes for service users through making the provision of appropriate staffing in health and care a statutory requirement. The bill covers both health and social care services, with the aim of ensuring more integrated workload and staff planning. It has been noted that that broader approach seeks to ensure that there will be appropriate staffing to deliver high-quality care whatever the setting.

As has already been mentioned, it is important to be clear that the bill does not focus on national workforce planning. The bill focuses on the development and application of workload planning tools that aim to ensure that health and social care providers have adequate numbers of suitably qualified staff to provide safe and high-quality services. Although the Scottish Government has overall responsibility for NHS workforce planning and decides on most of the numbers of health service training places, it should be noted that that does not necessarily cover the number of training places for those entering the allied health professions, such as occupational therapy.

The Scottish Government undertook two consultations on the bill's proposals—in 2017 and in 2018—and the general feedback was that the proposals seemed too narrow. There was a fear that the focus and resources would be directed at nurses and midwives rather than at all groups, including occupational therapists, for example. In addition, it was felt that the proposals did not consider safe staffing in a system-wide way in the context of national workforce planning and training numbers, and current workforce challenges.

The bill currently does not provide guidance on how to identify, monitor and mitigate staffing risks in response to differing daily needs. Additionally, the proposals must go further to strengthen the role of the nurse to make the professional judgments in regard to staffing.

The second consultation on proposals, which took account of earlier responses and focused on how the legislative framework would cohere across health and social care, ran for four weeks in February 2018. The respondents felt that any new methodologies should work across health and social care, that there should be flexibility in how new tools were developed, used and reviewed and that there should be recognition of the new challenges across sectors in recruiting and retaining staff.

The Finance Committee also issued a call for views on the financial memorandum of the bill, and received several responses. The issues that were raised included training costs, costs associated with reviewing the staffing tool and costs to other social care providers. It is important that we use all our resources wisely, and the goal of the bill should be to do just that.

We can all agree that a well-researched and evidence-based staffing framework would be ideal to ensure that the right staff are helping the right patients. It would have a legislative framework for health boards that is methodologically sound. That would include the use of specified staffing and professional judgment tools, consideration of quality, local context and risk, and a requirement to report on how boards use the tool and methodology when making decisions about staffing requirements. For example, what might be right in Ninewells in my region might not be right for Stracathro.

However, the bill provides no concrete examples of how legislation will actually achieve that. The Scottish Government claims that that practice is based on methods that are implemented by nurses and midwives, yet it fails to produce data that demonstrates the success that caregivers have had with the methods. If the bill is to be effective, it must require constant reporting. That would not only maintain data to measure effectiveness but ensure that the guidelines are followed.

It is important to consider how the bill will deal with the real problems of staff shortages and budget cuts in planning teams. There has been little information about the costs of implementing those changes. The social care workforce is currently experiencing challenges in terms of recruitment and retention. We must be sure that

the bill will not add further processes and pressures to a system that is already under strain, or increase the reliance on agency staff and undermine the financial stability of the sector. A move to a new system will create new up-front costs before any of the promised savings can be realised.

Although it is already the duty of health boards and care service providers to ensure appropriate numbers of staff, the guiding principle of the bill is acceptable. As has been said, having the right people with the right skills in the right place at the right time to ensure that the highest quality of care and outcomes are delivered across health and social care is a principle that we all share.

The Scottish Government is undertaking a reform of the planning system 12 years after the last reform. However, it has been clear from the beginning that there are problems in planning that are caused by cuts to budgets and staff shortages. The Royal College of Physicians and the Royal College of Nursing Scotland have both raised concerns that staff shortages are a key issue. As others have commented, it is resources, not reorganisation, that are needed.

16:28

Bob Doris (Glasgow Maryhill and Springburn) (SNP): I have not been involved in the scrutiny of the bill at stage 1, because I do not sit on the Health and Sport Committee. However, I note that the policy memorandum says:

"The policy intention of the Scottish Ministers is to enable a rigorous, evidence-based approach to decision making relating to staffing requirements",

and the stage 1 report says that the

"overall aim of the Bill is to ensure safe and appropriate care staffing levels based on clear, evidence-based methodologies, regardless of setting".

We can all agree with those underlying principles. I associate myself with those intentions.

Some interesting parts of the stage 1 report have come to my attention. Paragraph 57 says:

"We believe there must be more clarity on where accountability for the provision of appropriate staffing in health boards and care services lies. Whilst the Policy Memorandum advises it will lie with organisations we believe unless there is a named accountable officer there is a high likelihood, particularly in health board settings, for those at ward level to be held or feel accountable."

I note that the cabinet secretary has since said that clarity in NHS wards around the country will be important, and I welcome the assurances to the committee that health boards will have corporate responsibility for compliance. I also note that senior charge nurses will be expected to run the current adult in-patient tool.

To be fair, I am not sure whether that provides full clarity, given that establishing safe staffing levels at any snapshot in time is not an exact science. I declare an interest, as my wife is a nurse. Clinical co-ordinators use significant data more generally to determine what staffing is required at any given time. Even large events such as football games in a city, predictions of icy weather and trends of peaks and troughs in demand over the past few years can have implications for safe staffing levels in accident and emergency units, high-dependency units, intensive care units and beyond. Predicted demand and surge demand all have to be fed into the mix.

Depending on demand, complexity and the conditions that nurses in particular often have to deal with, nurses are transferred regularly between wards. A nurse often has to decide whether it is safe to transfer a nurse from their ward. By the same token, a nurse might have to decide whether it was appropriate to take an additional patient into their ward. Those nurses would consider whether staffing levels would be safe with an additional patient or if they allowed a nurse to go to another ward that was experiencing surge demand.

The nurse in charge is not always a senior charge nurse, although I appreciate that the final decision would be taken by a senior charge nurse. At every organisational layer in NHS hospitals, professional judgment is exercised. For corporate compliance, the buck must stop somewhere. Greater clarity about that is required.

It is positive that, if conflict arises when a nurse in charge tells a senior charge nurse that taking an additional patient on a ward would not be advisable or when a senior charge nurse disagrees with the board on the professional judgment of safe staffing levels, there will be an opportunity to review, revise and enhance the workload and staff planning tools. However, we need clarity about where responsibility sits.

The extension of the bill to the care sector is powerful and will strengthen the sector—particularly in relation to third sector providers. Operators of third sector care homes in my constituency have told me that the national care home contract has been unfair to them. They have asserted that it gives council care homes preferential treatment and that social care services that have been procured from the third sector are not always funded as appropriately as those in a local authority setting might be.

Surely developing and agreeing—with professional judgment—what a multidisciplinary skills mix would look like in the care sector would be a key strength in the care sector's negotiations with councils and integration joint boards. Ensuring a level playing field across the care

sector, irrespective of where care is delivered, is welcome.

My mum was in a care home that was—fortunately—wonderful. The building was old, but the staff were fantastic. We want to empower people to ask how they can know that the staffing mix in a care home is safe. When they ask that, they are given general reassurances that it is okay and that the care and the skills mix are suitable for their mum, dad, brother or sister.

Such reassurances would be much better if people knew that there was a robust, consistent and reliable evidence-based safe workload planning tool to ensure that the skills mix was correct. Such a tool does not exist consistently across the country, but having one would empower not just the care sector but staff on the front line to say that they do not believe that staffing is sufficient and that providers must do better. In the care sector, we must empower families to be sure that their loved ones are suitably looked after.

I welcome the bill's general principles.

The Deputy Presiding Officer (Linda Fabiani): We move to the closing speeches.

16:34

David Stewart (Highlands and Islands) (Lab): This has been an excellent debate, with insightful and well-informed speeches from across the chamber. As a member of the Health and Sport Committee, I was present and took an active part in the questioning of all our witnesses, including the cabinet secretary. Therefore, I feel that I have some background in the subject.

To paraphrase the conclusion of our stage 1 report—which many members have mentioned today—no one can object to the guiding principles of the bill, which is about having the right people with the right skills in the right place at the right time, to ensure the highest quality of care. As we have heard, Labour supports the general principles of the bill. However, as Monica Lennon, Anas Sarwar and Alex Rowley made clear, there are areas of concern, and we believe that addressing those areas could strengthen bill.

This morning I got the cabinet secretary's response to the committee's stage 1 report, in which she said:

"This Bill is about workload planning not workforce planning."

Critics might argue that that is about how many angels can dance on the head of the pin. Many territorial boards in Scotland, such as my own in Highland, have a workforce crisis. Anas Sarwar talked about the consultant who is employed for £400,000 a year—a horrendous amount of money—which, in turn, fuels the flames of financial instability. Scottish Labour believes that health and social care policy should be focused on achieving the best outcomes for people and protecting staff wellbeing.

As COSLA has argued, the overreliance on processes could make the bill just another bureaucratic box-ticking exercise. However, I have heard the cabinet secretary say that she will lodge some amendments at stage 2, and I believe that other members will do that, too. There are opportunities to strengthen the bill.

We need to learn lessons from history. As I said a few weeks ago—during our debate on bullying at NHS Highland—we need to look at the Francis report on bullying and whistleblowing in the NHS in England. It concluded that losing trained talent from the NHS led to inadequate staffing levels and poor quality of care.

As we know from the stage 1 report, a set of 12 workforce planning tools has been developed for nursing and midwifery. As the cabinet secretary will know, the committee conducted a survey on the tools. Some respondents said that the tools were not helpful in a community setting and were time consuming, and that staff were not sure how the tools could help to develop safe staffing for patients. A third of survey respondents had received no training in how to use the tools, and there was no consistency in how training was delivered.

As Audit Scotland has said, there is a risk that the time taken to train affected staff could put extra pressure on the workforce and impact on services and quality of care to patients.

This useful debate was kicked off by the convener of the committee, Lewis Macdonald, who talked about the committee's constructive suggestions in a unanimous report. He also mentioned allied health professionals' views, which we must listen to in the debate. As the cabinet secretary will be aware, some evidence suggested that the bill is perhaps too process focused.

Miles Briggs made good comments about the crucial point—it is self-explanatory—that people are the most valuable asset in the NHS. He asked what the bill will do for those working in health and social care on the front line. He also mentioned the RCN survey, which gave us some very useful raw materials.

Just about every member made the obvious point—it must be made—that every single day, NHS staff go the extra mile to help patients. My colleague, Monica Lennon, talked about the fact that we are living longer, but she also asked whether we are living healthier, particularly if we look at health inequality within Scotland. She

talked about how a focus on outcomes is key and she made the interesting point that there are enough vacancies in the NHS to staff two moderately sized hospitals.

Alison Johnstone made an excellent point about research finding links between good, safe staffing levels and favourable health outcomes. She also touched on the 4.5 per cent vacancy level for nurses and midwives.

Many members have made the point that the Scottish Government must have a duty of care for the wellbeing of all staff. That duty may be mentioned in some historical legislation, but perhaps there could be an amendment in that regard from the committee at stage 2 that the cabinet secretary would look on favourably.

Alex Cole-Hamilton started with a rhetorical question: is the bill needed? He stressed the importance of protecting hard-working staff on the front line and made a key point about the need to get the right balance of skills and experience.

Anas Sarwar made an interesting point about whether there should be a cap on agency staff costs, which I hope that the cabinet secretary will consider.

The other day, I was reading the *British Medical Journal*, in which Dr David Oliver, who is a consultant in acute general medicine, wrote:

"Without adequate staffing in clinical roles NHS performance will decline, and services will become unsustainable. Morale will worsen, and staff will leave or choose to do less—a vicious circle."

As Nye Bevan would have said about that,

"You don't have to gaze into a crystal ball when you can read an open book."

16:46

Brian Whittle (South Scotland) (Con): I refer the chamber to my entry in the register of members' interests, which states that I am a director of an IT company that is developing communication and collaboration platforms for sectors including the healthcare sector. I receive no remuneration for that post. In addition, a close family member works in the Scottish NHS.

It has been a good debate on an extremely important subject. When the bill was first proposed, it was to be called the safe staffing bill. The word "safe" was dropped because of the connotations of a safe level of staffing not being met. As Anas Sarwar said, if we had safe levels of staffing, by default, we would also have unsafe levels of staffing. That probably tells us how important the bill is.

The bill allows us to focus on our healthcare professionals, their health and the quality of the healthcare that we receive from the NHS. The guiding principles and overall purpose of the bill are about reassuring people in hospital or social care that they will receive safe and high-quality care.

There was a concern among members of the committee that the work on the integration of health and social care, which is already well under way, could be negatively affected by the bill, so I think that the cabinet secretary needs to reassure the committee that that will be avoided.

Edward Mountain was right in his summation when he said that although the welfare of all our healthcare professionals is mentioned in the bill, it does not say—David Stewart made the same point—how that will be achieved, given the ever-increasing demands on the health and social care sector, which the cabinet secretary herself mentioned. Conservative members have consistently stated that, when it comes to creating an environment in which patient outcomes are a priority, looking after the health of our healthcare professionals must be the first step to consider. As the Marie Curie charity highlighted, staff safety and wellbeing contribute to safe and high-quality care.

The bill will require to be underpinned by the appropriate technology. That was a thread that I was keen to pursue during the committee's evidence taking. My concern in that regard is that a replacement platform to deliver on the bill's objectives was not developed prior to the bill's introduction, even though the development of appropriate technology is fundamental to the success of those objectives. The committee was surprised to learn that a review of the current tools to assess their efficacy had not been undertaken prior to the bill's introduction.

The starting point for any bill should be consideration of the end objectives, and the Scottish Government has not been particularly successful in rolling out technology. To be successful in developing technology, it is essential that the project is fully scoped and that tight protocols are in place. Understanding that step should have been a prerequisite for the bill's introduction. The implementation of the current tools is patchy at best.

I always enjoy listening to Alex Neil's contributions to health debates, and he was right to say that there are wonderful technology companies in Scotland that are developing fantastic products. However, we fall down when it comes to integrating those products into the health service; we are not particularly good at that. The use of those tools and their integration into the NHS must be considered.

As things stand, the technology that the Government is relying on for the nurse and midwifery workforce tools is bolted on to an existing platform. That is a recipe for confusion and does not seem to deliver a patient-medical practitioner outcome focus. As Miles Briggs said, we need to look at outcomes versus process. COSLA said that it saw the bill as focusing on "inputs rather than outcomes". Indeed, the committee noted that the Scottish Government did not consider that outcomes should be mentioned in the bill.

If outcomes were the primary objective, allied health professionals, occupational therapists and social care would be intrinsically woven into the software development before it ever launched, because an outcomes-focused solution must involve that multidisciplinary team. It is inconceivable that any health care plan could be effective without physiotherapists, radiographers, speech therapists, mental health practitioners, social care professionals and so on. It is very welcome to hear the cabinet secretary suggest that stage 2 amendments will be lodged to address that, and we look forward to seeing and assessing those amendments.

I was pleased to hear that NHS National Services Scotland is undertaking work to procure a new platform to replace the Scottish standard time system platform, but that is being done without the development plan for the workforce planning tools required for a multidisciplinary team approach. That work needs to be done in conjunction with the introduction of the bill, if patient and staff outcomes rather than process are to be the main drivers.

Many members have highlighted the unintended consequences of the tools applying only to nurses and midwives. It might squeeze out the other disciplines, such as allied health professionals, occupational therapists, social care professionals and so on.

Annie Wells highlighted the third sector's concerns. Given that a third of the voluntary sector is already involved in social care, that sector needs to be persuaded. The SCVO suggested that no particular benefit would come from the bill, while the Law Society of Scotland said:

"It is difficult to assess from the face of the Bill whether the main policy objective of appropriate staffing will be met, as the Bill is largely a vehicle for more legislation to come."

The Royal College of Surgeons of Edinburgh warned:

"There is a danger that individuals are held accountable for not being able to provide 'safe' levels despite circumstances being out of their control."

Other sectors, such as the care sector, have raised similar concerns. Unison Scotland noted that if the Scottish Government decides to proceed with the bill in a fashion that requires adherence, it needs to make it clear who is responsible for delivering that policy. If the Government cannot clarify specific lines of accountability, the bill will become redundant.

With regard to social care, if commissioners are introduced into the process without being referred to in the bill, how will they be required to adhere to the guiding principles?

I am sure that all members would agree that the Scottish Government's objectives are not only laudable but essential, but if the bill is to succeed there is work to do. In supporting the bill at this stage, we recognise that the elephant in the room is the shortage of staff across all medical professions. Unless we address that, the potential of the bill will be eroded.

The Deputy Presiding Officer: I call Jeane Freeman to close the debate. We have a little extra time, so a generous 10 minutes should take us to decision time.

16:48

Jeane Freeman: Thank you, Presiding Officer.

I agree with other members that this has been a good debate, which has encapsulated the complexity of the legislation and the importance of ensuring that the bill acts as an enabler for the development of more evidence-based, professional-led methods of assessing the workload that is associated with the delivery of care for the people of Scotland.

I thank all members who have taken part in the debate, and I take this opportunity to thank the Delegated Powers and Law Reform Committee, the Finance and Constitution Committee and, in particular, the Health and Sport Committee for their work to inform Parliament's consideration of the bill.

Before I turn to specific points that members have raised, I thank our key partners across the health and care sector for their constructive engagement with us and for their considerable input to the bill so far. I have listened very carefully to all the views that have been expressed—I will return to that later—and will continue to work with those key partners to ensure that the bill delivers what we want it to deliver.

I will turn to some of the points that have been made, but I have to say that, even with a generous 10 minutes, I will not be able to cover them all. Before I start, though, I will say this: after the debate has been concluded and Parliament has—I hope—agreed to support the bill at stage 1, we will look carefully at the *Official Report* of the debate and I will carefully consider all the points that have

been raised and how we might address them. I will then deal with those issues when I come to the Health and Sport Committee at stage 2.

I am certain that members across the chamber will want to lodge amendments at stage 2. As was my approach when I had responsibility for social security, I will offer an opportunity to discuss those amendments before they are lodged to ensure that, where we can reach agreement, we do so in advance. I would hate to be in the position where the Government agrees with the principle and spirit of an amendment but cannot agree to its being passed simply because some of the words are not quite right in legislative terms. We have managed to take that approach before and I am certain that we can manage to do so again. I am not seeking to subsume everyone else's amendments into Government amendments, but I want to work as hard as I can to reach consensus on the bill. That is because I believe that we all agree on the bill's principles and recognise its importance, and we all want to make good law that will aid us in our work.

First, I want to address some of the points that Lewis Macdonald made when he spoke on behalf of the committee. I should say that I am grateful for the considered report that the committee has produced for us and for the contribution that Mr Macdonald made. On the point about the bill being too focused on process at the expense of outcomes, I know that others have made the same comment—indeed, COSLA has raised it as a concern—but I do not believe it to be the case. The bill recognises a focus on outcomes, but I am perfectly willing to look at whether we can strengthen that aspect and make it even clearer.

That said, I cannot understand the thinking here. Surely having an evidence-based, robust approach and a clear methodology that are consistently applied across our health and social care sector, which are appropriate to those settings and which allow us to identify workload and, in turn, ensure that professional judgment can be exercised with regard to the staff and skills mix that is needed will lead to the provision of high-quality outcomes for patients and staff. As I have said, if that is not clear enough, I will be very happy to look at it in more detail.

I am grateful to Mr Macdonald for recognising the importance of rolling out excellence in care and for raising the point about monitoring and guidance. In his speech, Anas Sarwar made some useful points about how, once the bill is, as I hope, passed and enacted, the public and, indeed, the chamber can be advised of the work that will go on and the results that will be produced and can compare and contrast that information with work on workforce planning and the recruitment and training of appropriate levels of staff in all areas. Again, I am happy to look at how that aspect might be strengthened in the bill.

I do not believe that the bill will skew resources because one set of tools is ahead of the other. We have made it very clear that, as the tools are developed for the settings in which we will want them to be put in place, we will work with stakeholders to ensure that they are appropriate to those community-based settings. The existing tools already cover both acute and community settings, but I strongly take Alex Neil's point that, when we talk about community settings, we are talking about not only social care but primary care.

Anas Sarwar: I realise that the cabinet secretary cannot respond to all the requests that have been made, but can she respond to the specific point about a cap on agency fees and charges?

Jeane Freeman: I say to Mr Sarwar that I am getting there—trust me.

On the question of why we need legislation as opposed to the current mandate, one member—I think that it was David Stewart—made it clear why we need to move from a mandate to legislation. It is because we have the mandate but we do not have sufficient training, we do not have time for training, we do not have support for staff and we do not have support to ensure that the information that is produced is analysed and then applied, and the legislation will enable us to do that.

With regard to who is accountable, the bill, if passed, will add to the National Health Service (Scotland) Act 1978 and will make it a duty for the health board to be accountable. That includes the chief officers of IJBs. Similarly, the existing powers of the Care Inspectorate would apply. I therefore think that the question of accountability can be answered, although I am happy to discuss that further.

Before I run out of time, I will turn to the proposed cap on agency charges. I agree with Mr Sarwar in full that the current situation, of which he gave examples, is unacceptable. I am not certain that the Scottish Government has the powers to do what he asks in terms of capping the agency charges, but I am happy to continue to discuss that further with him and his colleagues to see what more we might do. Certainly, the application of the legislation should lead to a continued reduction in the requirement for agency spend. I should make the point that, in the current year, that is down by 7 per cent from what it was previously, and the application of the legislation should allow us to drive that down even further.

I take this opportunity to thank Mr Sarwar for his contribution, in which he said what he thought was wrong with the bill and then offered concrete suggestions for its improvement.

I need to make a point about Brexit. I am not standing here and saying that our current issues with recruitment and retention are exclusively down to Brexit, but there is no question but that Brexit will exacerbate the problem that we have. So, too, will immigration legislation that does not meet the particular needs of Scotland, the Scottish economy and the Scottish population. That is why we must seriously consider the issue of immigration powers coming to this Parliament and not simply residing in Westminster, where they are skewed.

David Stewart: The cabinet secretary will be well aware of the UK Government changes that were made this week, which will double the non-EU staff levy that has to be paid. That will affect the health service in Scotland. Has the cabinet secretary made an assessment of the effect that that will have?

Jeane Freeman: I cannot think that it will be a good one. I have not yet made an assessment of that in detail but, once I have done so, I am happy to let Mr Stewart know how it might add to the difficulties that we are facing.

Mr Mountain and others talked about looking at the issue of wellbeing in the bill. Again, I am happy to consider an amendment that might strengthen that area and to discuss that issue further. We need to be careful that we do not stray into health and safety or employment legislation, because those areas are reserved.

I do not think that it is an either/or proposition when it comes to assessing workload and workload planning. We should not wait for one to be got right before we address the other; the two need to go hand in hand. However, I believe that the bill, significantly strengthened at stage 2, as it undoubtedly will be, will greatly contribute to our capacity to increase the performance and efficacy of our workforce planning and, from that, the number of people who we support through training across a range of professions.

As always, I am open to further conversations as we go into stage 2 in order to see the extent to which we can reach consensus on this important piece of legislation. There will undoubtedly be areas on which we disagree, but I am certain that, with good will from across the chamber, we can get a piece of legislation that is not only fit for purpose but fit for the needs and expectations of the people we serve.

Health and Care (Staffing) (Scotland) Bill: Financial Resolution

16:59

The Presiding Officer (Ken Macintosh): The next item of business is consideration of motion S5M-14969, on a financial resolution for the Health and Care (Staffing) (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Health and Care (Staffing) (Scotland) Bill, agrees to any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament's Standing Orders arising in consequence of the Act.—[*Derek Mackay*]

Business Motion

16:59

The Presiding Officer (Ken Macintosh): The next item of business is consideration of business motion S5M-15076, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out a revised business programme.

Motion moved,

That the Parliament agrees to the following revisions to the programme of business for—

(a) Thursday 13 December 2018—

delete

2.00 pm	Scottish Government Debate: Demonstrating Leadership in Human Rights

insert

2.00 pm	Ministerial Statement: The UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill – Reference by the Attorney General and the Advocate General for Scotland to the UK Supreme Court
followed by	Scottish Government Debate: Demonstrating Leadership in Human Rights

(b) Wednesday 19 December 2018—

delete

2.00 pm	Parliamentary Bureau Motions
2.00 pm	Portfolio Questions: Communities and Local Government; Social Security and Older People

insert

1.15 pm	Parliamentary Bureau Motions
1.15 pm	Members' Business
followed by	Portfolio Questions: Communities and Local Government; Social Security and Older People—[*Graeme Dey*.]

Motion agreed to.

Decision Time

17:00

The Presiding Officer (Ken Macintosh): We move to decision time. The first question is, that motion S5M-15055, in the name of Jeane Freeman, on stage 1 of the Health and Care (Staffing) (Scotland) Bill be agreed to.

Motion agreed to,

That the Parliament agrees to the general principles of the Health and Care (Staffing) (Scotland) Bill.

The Presiding Officer: The second question is, that motion S5M-14969, in the name of Derek Mackay, on a financial resolution for the Health and Care (Staffing) (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Health and Care (Staffing) (Scotland) Bill, agrees to any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament's Standing Orders arising in consequence of the Act.

The Presiding Officer: That concludes decision time.

Meeting closed at 17:00.

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