



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Meeting of the Parliament

**Thursday 16 January 2020**

**Session 5**



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Pàrlamaid na h-Alba

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# Scottish Parliament

Thursday 16 January 2020

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

## General Question Time

### Alcohol and Drug Services (Evaluation)

1. **Ruth Maguire (Cunninghame South) (SNP):** To ask the Scottish Government how it evaluates the delivery of alcohol and drug services. (S5O-04009)

**The Minister for Public Health, Sport and Wellbeing (Joe FitzPatrick):** “Rights, Respect and Recovery: Scotland’s strategy to improve health by preventing and reducing alcohol and drug use, harm and related deaths”, which was published in November 2018, sets out our national strategy for tackling alcohol and drug harm. That includes an eight-point plan for treatment and recovery, which will improve access to effective services, and interventions to support individuals to achieve their recovery.

In October last year, in partnership with the Convention of Scottish Local Authorities, we published an action plan to deliver the strategy, and local areas are required to have their own strategies in place by April 2020. NHS Health Scotland has been commissioned to draw up a monitoring and evaluation framework for the strategy, which will sit alongside the existing evaluation of the alcohol framework.

**Ruth Maguire:** I have raised previously the slightly opaque nature of the way in which funding is allocated between clinical and recovery programmes. How will the Scottish Government ensure accountability and transparency around funding and delivery of outcomes so that successful community-based recovery initiatives such as the recovery cafes that are running in Ayrshire, which provide not only practical support but hope and purpose, can be scaled up for the benefit of my constituents?

**Joe FitzPatrick:** Recovery cafes play a key role in supporting people’s recovery from problem alcohol and drug use. They are led by people in recovery for others in recovery and demonstrate the impact that people with lived experience can have on supporting others in their recovery. The Scottish Recovery Consortium has played a key role in the development of the cafes across Scotland; I am very much a supporter of them.

As I said in my initial answer, NHS Health Scotland is leading the evaluation of our “Rights,

Respect and Recovery” strategy through the evaluation framework. That will be published in February, and it will be used to monitor and evaluate progress against commitments and outcomes from the strategy on an on-going basis. That will sit alongside the existing framework for alcohol harm prevention, but it is important that it goes further than looking simply at medical support for people in recovery and that it looks at wider wraparound support, which very much includes recovery cafes and other such initiatives, some of which do fantastic work and perhaps do not quite get the recognition that they deserve.

**David Stewart (Highlands and Islands) (Lab):** What plans does the Government have to introduce a social responsibility levy on alcohol retailers? Legislation on that has been passed by the Parliament, but the measure has not been introduced, although it would provide millions more for alcohol and drug services.

**Joe FitzPatrick:** The member has raised that point previously, and he will be aware that I support our having that power. The power is intended to recoup any additional profit from the alcohol industry as a result of minimum unit pricing, but we must accept that it will take some time before we understand whether that additional profit exists. The member has made that point before and I am sure that he will make it again. I do not disagree with him, but we need to ensure that we take actions based on evidence, and we do not quite have the evidence to support taking that action just yet.

**Miles Briggs (Lothian) (Con):** What assessment have ministers made of the impact of the loss of drug and alcohol rehabilitation beds? In 2007, 352 beds were available across Scotland, but today there are just 70.

**Joe FitzPatrick:** Across Scotland, drug and alcohol partnerships are shaping their services according to local circumstances. Particularly in Glasgow, there has been a major reshaping of recovery services in order to focus on those who need that particular acute support, and there is a shift towards more community recovery. That said, my officials and I are looking across Scotland to map the rehabilitation support that is available so that we can see where there are gaps and then consider how to move forward on that.

### Foundation Apprenticeships

2. **Jamie Halcro Johnston (Highlands and Islands) (Con):** To ask the Scottish Government whether it will provide an update on the delivery of foundation apprenticeships. (S5O-04010)

**The Minister for Business, Fair Work and Skills (Jamie Hepburn):** Foundation apprenticeships started with the early pathfinders

in 2014-15. Over the first three cohorts and the pathfinder phase, there have been 3,454 FA starts.

Skills Development Scotland will publish its next annual progress report on foundation apprenticeships by March 2020, which will include details of the current cohort.

**Jamie Halcro Johnston:** We await the figures that, as the minister mentioned, will be published in March, but it is clear from the last cohort that was measured that there has been huge variability in uptake across Scotland. In some areas, more than 5 per cent of secondary 4 pupils took part, but in others, including my Highlands and Islands region, the numbers were negligible—0.7 per cent in Moray, 2.5 per cent in Orkney and fewer than five starts in Shetland.

Can the minister tell me whether that is a question of places being available or of insufficient demand in those areas, and will he commit to improving those figures to ensure that foundation apprenticeships are not only available but signposted to young people across the whole of Scotland, and that young people are actively encouraged to take them up?

**Jamie Hepburn:** On the member's latter point, I certainly agree that we should be ensuring that everyone signposts the opportunity of a foundation apprenticeship to young people. However, I am afraid that, on his overall question, he seems to be somewhat misinformed. We have seen a 345 per cent increase in the number of starts from the first cohort to the third cohort and we have met our commitment to provide 5,000 opportunities by 2019.

If we look at the local authority areas that comprise the Highlands and Islands region, we see that the number of FA starts is broadly in proportion to the population—actually, it is slightly higher per capita. In Scotland, we have seen growth in the number of foundation apprenticeship starts, modern apprenticeship starts and graduate apprenticeship starts.

In Tory England, however, since the introduction of the apprenticeship levy—which was introduced by the Tories without consultation of the Scottish Government—figures for the first three quarters of the 2018-19 academic year, compared to the numbers for the first three quarters of the academic year prior to the introduction of the apprenticeship levy, show a decrease of 29.3 per cent in the number of apprenticeship starts. In the same intervening period across the range of apprenticeship starts in Scotland, we have seen an increase of 11.7 per cent.

Michelle Ballantyne, who is sitting next to Mr Halcro Johnston, had a question on apprenticeships last week. She was rather

fortunate that her question was not reached. Mr Halcro Johnston has been less fortunate because his question has been reached. We have placed that on the record and I say to the Tories that apprenticeships are not the most fertile line of inquiry for them as a party.

### Mesh-injured Women's Fund

3. **Neil Findlay (Lothian) (Lab):** To ask the Scottish Government whether it will establish a mesh-injured women's fund. (S5O-04011)

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** Both the First Minister and I appreciate the impact that mesh complications have had on those affected and their families, not least in light of the meetings that the First Minister and I held with mesh-injured women in November. We want to ensure that all available care and treatment options are open.

With the needs of affected women uppermost in our minds, we will consider the range of services and support that are available. As part of this year's budget process, I am currently exploring the different forms of support that could be offered beyond the provision of direct care services. It is important that that work recognises the impact that this issue has had on the lives of the women affected, and that is what I will seek to reflect.

**Neil Findlay:** Mesh-injured women have lost their jobs, relationships, income and homes, and they have to pay for incontinence products, clothing, bedding and other items to try to manage the horrendous consequences of mesh implantation. Will the cabinet secretary actively speak to the Cabinet Secretary for Finance, Economy and Fair Work to set up a fund to help those women who are being financially penalised through no fault of their own? Will she ask the First Minister to respond to the letter that I sent following the meeting in Glasgow in November to which the cabinet secretary referred, as I have not received a reply?

**Jeane Freeman:** I am sure that Mr Findlay listened carefully to what I said. What I said implied—actually, it did not imply it; I said it—that as part of the budget process I was looking at all the services and support that are appropriate and should be there to support the women who he referred to, which includes the women whom the First Minister and I met.

It would be irresponsible for me to begin to commit new funds while I am in the middle of a budget process with the Cabinet Secretary for Finance, Economy and Fair Work. When the budget finally comes, it will be a decision for the Parliament. I hope that if we are able to introduce those things that Mr Findlay—rightly—cares about, he will find himself able to support that budget.

On the First Minister's response to Neil Findlay's letter, the First Minister is, rightly, waiting to see what I intend to bring forward so that her reply can be as full as possible. I have now said where we are in that process and I hope that he is content with that—indeed, I hope that he welcomes it.

#### **Accident and Emergency Departments (Waiting Times)**

**4. Gordon Lindhurst (Lothian) (Con):** To ask the Scottish Government what its response is to reports that a record number of people are waiting over 12 hours in accident and emergency departments. (S5O-04012)

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** In November, attendances at our emergency departments were more than 11 per cent higher than they were four years ago, and that includes an almost 5 per cent increase in the latest year. Against that significant increase in demand, our national health service emergency department staff continue to deliver the highest performance in all nations in the UK—as they have done for four and a half years now. Nonetheless, the level of 12-hour delays has increased in our key sites.

To support an immediate reduction in the levels of delays, I have continued work on a whole-system response and have intensified the focus on that, with additional financial support to look at what more we need to do to ensure sustainability and robustness in our out-of-hours provision. I have commissioned further work to allow us to understand better why we have that high level of increased attendance, and have continued to work with my partners in local government to ensure that we minimise delayed discharge and improve the flow through the hospital in order to free up beds for patients who appropriately attend A and E and who need to be admitted to hospital for further treatment.

**Gordon Lindhurst:** The Scottish National Party's target of 95 per cent of patients being dealt with within four hours has not been met in the past two and a half years. With all the other issues facing the SNP-run NHS in Scotland, can the cabinet secretary guarantee when we will see continuous sustained improvement over time?

**Jeane Freeman:** I have to admire Mr Lindhurst's bravery. I will tell him what will happen with the Scottish Government's target: we will keep it, unlike his Government south of the border. Not only will we keep the target, we will continue to work to meet it. I remind Mr Lindhurst that our NHS accident and emergency staff in Scotland continue to be the best performing across the United Kingdom, and have been for four and a half years.

I will tell Mr Lindhurst what else the SNP Government will do: we will listen to the Royal College of Emergency Medicine. I wish that his Secretary of State for Health and Social Care would also listen. He might also care to reply to any of the letters that I have sent him over the past 18 months. The Royal College of Emergency Medicine tells us that our target matters and should be kept. We will continue to work towards that target, we will continue to be the best-performing NHS in the UK, and we will continue to have a single-system NHS, unlike Mr Lindhurst's colleagues south of the border, who continue to break up their NHS. Unlike his colleagues south of the border, who intend to abandon their target, we will keep our target.

By the way, the reason why I mentioned Mr Lindhurst's colleagues is that he and the other Conservative members want to run our health service in Scotland. God help us if that day ever comes.

#### **US Military Action in Iran (United Kingdom Involvement)**

**5. Gillian Martin (Aberdeenshire East) (SNP):** To ask the Scottish Government, in light of the potential impact on Scotland-based armed forces personnel and their families, what its response is to any United Kingdom involvement with US military action against Iran. (S5O-04013)

**The Cabinet Secretary for Culture, Tourism and External Affairs (Fiona Hyslop):** The Scottish Government would be concerned about any further escalation resulting in military action. We continue to urge all parties to refrain from further violence and to work to de-escalate tensions. Further conflict in the middle east is in no-one's interests. We recognise the value of the joint comprehensive plan of action and the impact that that agreement has had on peace and stability in the region.

We support the continued commitment of the UK, France and Germany to that agreement, as seen in their E3 statement on January 12. It is right that the E3 are raising their concern at the US decision to re-impose sanctions on Iran, and are urging Iran to refrain from further military action and to return to its commitments under the agreement.

The Scottish Government believes that the joint comprehensive plan of action is the best avenue that we have to prevent nuclear proliferation and to de-escalate tensions peacefully. We understand that the European powers have now triggered the formal dispute mechanism over Iran's breaches of key parts of the 2015 agreement.

**Gillian Martin:** The cabinet secretary will be aware of the irresponsible comments by the Prime

Minister earlier this week. He said that he believes that the Iran deal—which the cabinet secretary has referred to—should be abandoned and replaced with “a Trump deal”. Does the cabinet secretary agree that, instead of playing the role of Trump’s lapdog, the UK Government should be advocating the benefits of the current deal, and working with all sides to gain their recommitment to a deal that makes the type of conflict that we all fear less likely?

**Fiona Hyslop:** The Scottish Government is concerned that the UK Government is sending mixed messages. The Prime Minister made his comments on the same day that the UK, as part of the E3, activated the formal dispute mechanism of the current agreement, and stated publicly the “over-arching objective of preserving” the agreement.

If that leads to reactivation of all elements of the agreement, that offers the best prospect of preventing nuclear proliferation by Iran. We support the comments of the EU High Representative of the Union for Foreign Affairs and Security Policy, who recognised the agreement as a significant achievement of multilateral diplomacy, and reiterated the importance of preserving that agreement in the light of heightened tensions.

### **Royal Hospital for Children and Young People**

**6. Michelle Ballantyne (South Scotland) (Con):** To ask the Scottish Government what progress has been made on resolving the issues preventing the opening of the Royal hospital for children and young people in Edinburgh. (S5O-04014)

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** We remain on track to deliver my previously announced timescales of spring for the move of the department of clinical neuroscience, and autumn for the move to the new Royal hospital for children and young people.

All actions relating to medical gases and drainage are now complete, and good progress is being made with ventilation, electrical issues, fire safety and water. The senior programme director continues to ensure that the facility will be fit for occupation, and is overseeing the NHS Lothian action plan. The oversight board, which is chaired by the chief nursing officer, continues to oversee the work to ensure that the hospital is safe and is delivered as planned.

**Michelle Ballantyne:** The cabinet secretary has been very keen to suggest that the Scottish Government has no responsibility for the debacle, but the facts remain that the capital finance was provided by the Scottish Government and that it

was responsible for the due diligence checks on that spend.

Can the cabinet secretary confirm that, because the building contract was signed off when the hospital was handed over, the original contractors and others that have been approached are not willing to take on the work because they would become liable both for the building and the warranties, and that, as a result, the cost of sorting out that mess is now soaring?

**Jeane Freeman:** I am not entirely sure where Ms Ballantyne has been in all the discussions that we have had about the issue, or whether she has been doing her homework as a member of the Health and Sport Committee in order to understand how we have undertaken infrastructure projects in Scotland, and why we are now changing that.

The contract is, appropriately and in legal terms, between NHS Lothian and the contractors. Work is under way to ensure that the site will be safe and fit for purpose when the moves that I have outlined take place in the spring and autumn. The discussions are between the contractors and NHS Lothian.

The oversight board is concerned with ensuring that the work is done on time. As I have said, we are on track to deliver that work. I remind Ms Ballantyne and others that I halted the move to the hospital because it was not safe for patients or staff. That was the right decision. The move of the DCN will be in the spring, and the Royal hospital for children and young people move will be in the autumn. At that point, the Government and I, as health secretary, will be assured, as we should be, that it is safe for patients and staff.

## First Minister's Question Time

12:00

**The Presiding Officer (Ken Macintosh):** We turn to First Minister's question time. Question 1 comes from Jackson Carlaw.

### Curriculum for Excellence Inquiry

1. **Jackson Carlaw (Eastwood) (Con):** Thank you, Presiding Officer, I apologise for my voice.

**Members:** Aw.

**Jackson Carlaw:** That is probably the nicest that Scottish National Party members have been to me in 13 years. [*Laughter.*]

Last week at First Minister's question time, the First Minister was in denial about the state of Scottish education. What is her response to yesterday's call from MSPs from across the chamber for a full inquiry into broad general education and curriculum for excellence? Will she hold one?

**The First Minister (Nicola Sturgeon):** The Scottish Government will abide by the decision of Parliament yesterday and the Deputy First Minister will set out in due course how that will be taken forward.

Of course, I point out to Jackson Carlaw that a review of broad general education was carried out by the Organisation for Economic Co-operation and Development in 2015. When it issued its report and made its recommendations, the Scottish Conservatives welcomed the report and said that they agreed with its recommendations.

There is already a commitment to ask the OECD to carry out a review of the senior phase, but of course we will abide by the decision that Parliament took yesterday, whether or not we consider that that is necessary.

**Jackson Carlaw:** It is important that we have a full inquiry. A majority of MSPs across parties have demanded that and I am grateful if the First Minister is saying that her Government will respect the will of Parliament.

In so doing, does she also accept—as do the majority of MSPs in the chamber—that there are key weaknesses in key aspects of Scotland's school education and the qualifications structure that challenge her Government's claim that after 13 years of the SNP, Scotland's schools are producing a strong set of results?

**The First Minister:** I welcome Jackson Carlaw's comments about the will of Parliament, and I hope that the Scottish Conservatives will

apply that generally to decisions of this Parliament.

It is not and has never been my position as First Minister, the position of the Deputy First Minister as education secretary, or of this entire Government that there are not areas of Scottish education where we require to see improvement. That is why we are taking the action that we are taking. It is, of course, why in 2015 the OECD reviewed broad general education and why the Deputy First Minister has instructed a review of the senior phase.

What I did last week, and will do again today, is point to the evidence. Whether we look at performance at level 5, at level 6—which of course is highers—or in terms of the number of pupils who achieve five highers or more, all the evidence says that performance is improving. Of course, we want to see it improve even further, which is why we will continue with the range of reforms that are under way in Scottish education.

**Jackson Carlaw:** Let us remind ourselves of some of the concerns that were raised in yesterday's debate. More than 50 per cent of schools offer only six subjects in secondary 4; national 4, national 5, higher and advanced higher are being taught in the same class; and we are seeing the lowest higher and advanced higher results for five years. Those are serious matters and they should command our attention.

In saying that she will respond to the call from Parliament yesterday, does the First Minister accept that the nature and scope of the inquiry that has to take place must go beyond simply accepting that some things are going right in Scottish education, and focus on the things that are going wrong?

**The First Minister:** If we are going to instruct a review, it is important to allow that review to do its work. That is what we did in 2015 with the OECD review of broad general education, which I think reported early in 2016. Of course, that is the intention with the review of the senior phase, but, as I said earlier, the Government will say later how we intend to take forward the decision that Parliament took yesterday.

I can understand this, because it does not suit his narrative, but Jackson Carlaw never engages with the facts that are put forward in the chamber. Let me repeat some of them today. In 2006-07, the percentage of school leavers getting a level 5 qualification was 71.1 per cent. In the most recent year for which we have statistics, it was 85.9 per cent. When we took office, fewer than half of pupils left school with a higher; the exact percentage was 41.6. Today, almost two-thirds—62.2 per cent of pupils—leave school with a higher. In 2009, the percentage of pupils leaving

school with five passes or better was 22.2 per cent. Today, that is more than 30 per cent. I readily accept that further improvement is required and that is why we are taking the action that we are taking. It would be good, once in a while, for Jackson Carlaw to accept the progress that those statistics say is taking place in Scottish education.

**Jackson Carlaw:** The First Minister very often accuses others in this chamber of having not listened to the answer that she gave. In the question that I just put to her, I began by saying that we accept that there are many things that are right in Scottish education, but I also said that Parliament's decision yesterday goes way beyond wanting only to pat ourselves on the back about those issues. Parliament feels that we now need to deal seriously with the things that are going wrong.

It is the things that are going wrong that this Government consistently dismisses, undermines and refuses to engage with. My suspicion, from hearing the First Minister's answer, is that the review will be a whitewash, not a proper investigation into the real problems that exist.

Will the First Minister agree and repeat, not just that she will consider in due course, but that the review will be a full inquiry that will deal directly with the issues that a majority of this Parliament—from all parties other than her own—accepted needed to be dealt with as a matter of urgency?

**The First Minister:** Jackson Carlaw really needs to be quite careful.

I will take the positive out of what he said and perhaps we can get some kind of consensus here. If I heard Jackson Carlaw correctly, I think that he is now conceding that we are seeing progress going in the right direction: pupils are leaving school with national 5 and higher qualifications, and with five highers or more. If Jackson Carlaw is now conceding that, then that is, indeed, progress.

I have never stood here and said that there is not a need to look at where further improvement is required.

I think that Jackson Carlaw has to be really careful about what he said about whitewash reviews. The 2015 review into broad general education and the curriculum for excellence generally was carried out by the OECD, and the review of the senior phase that the Deputy First Minister has instructed will also be carried out by the OECD. Surely, Jackson Carlaw is not suggesting in any way, shape or form, that that will be anything other than an independent and robust review? In fact, the 2015 review, as I said earlier, was welcomed by the Scottish Conservatives, who accepted and agreed with its recommendations.

The Deputy First Minister will reflect on what Parliament decided yesterday. I have said that we will abide by that, and that we will advise on how we will take the matter forward.

Any fair-minded person would look at the reviews that this Government has instructed so far and would not come to the conclusion that Jackson Carlaw has. There is progress in Scottish education. We want to see that progress continue and accelerate, and that is why we will continue to get on with that job.

### **Allan Marshall (Fatal Accident Inquiry)**

**2. Richard Leonard (Central Scotland) (Lab):** Last year, the fatal accident inquiry into the death of Allan Marshall found that his death in custody was “entirely preventable”. A fortnight ago, we learned that Allan's family are now planning to launch legal action against the Scottish Prison Service, Police Scotland and the Crown Office and Procurator Fiscal Service.

Does the First Minister understand the hurt and frustration that is felt by Allan Marshall's family, and does she accept that justice still has to be delivered?

**The First Minister (Nicola Sturgeon):** Yes, I understand the hurt and the pain of Allan Marshall's family—indeed, of any family who face those circumstances. My deep condolences and thoughts are with them.

The Government—indeed, any agency whose conduct is the subject of a fatal accident inquiry—has a duty to learn from any recommendations. That will be the case for the Scottish Prison Service following the FAI into what happened with Allan Marshall.

As Richard Leonard said, Allan Marshall's family have—as they are entirely entitled to do—indicated an intention to raise legal proceedings, and I am sure that he will understand that it would not be appropriate for me to go into any detail right now of the circumstances of that potential legal action. Suffice it to say two things that I have already said: my thoughts remain with Allan Marshall's family; and the lessons that are in the FAI findings and its recommendations must be taken forward, and they will be.

**Richard Leonard:** It is not only Allan Marshall's family who have lost a loved one because of entirely preventable failures. The case of Craig McClelland has been raised with the First Minister a number of times by Labour's Neil Bibby. Craig was murdered in 2017, in an unprovoked knife attack by an offender who had unlawfully removed his electronic tag. Craig's attacker had been on the run for nearly six months.

The McClelland family called for a public inquiry, but the Government refused. The family sought a fatal accident inquiry and supported legislation that would have made a fatal accident inquiry mandatory when a murder is committed in such circumstances. However, the Government voted that down.

The Cabinet Secretary for Justice defended his decision, claiming that

“where the circumstances justify it, the Crown will undertake a death investigation”.—[*Official Report*, 25 June 2019; c 97.]

However, the McClelland family were told just before Christmas that their request for a fatal accident inquiry had been denied. Why do the circumstances of Craig McClelland’s death not justify an inquiry?

**The First Minister:** I have discussed the case of Craig McClelland in the chamber before—in response, I think, to questions from Jackson Carlaw and others—and I say again that what happened in that case was dreadful and tragic. My thoughts and condolences are with Craig McClelland’s family as well. A number of lessons have been learned. Whenever there is a request for a public inquiry, that is considered very carefully by the Government and the reasons for our decisions are set out. In some cases, of course, public inquiries are instructed.

As, I hope, Richard Leonard knows, decisions on fatal accident inquiries are constitutionally entirely matters for the law officers—the Lord Advocate and the Solicitor General. They are not decisions for the Scottish Government, and nor should they be. Therefore, it is not appropriate for me to second guess or comment on the decisions that the law officers make in that regard. However, whether or not there is a fatal accident inquiry, it is incumbent on the Government to learn any appropriate lessons, and we always endeavour to do that. Legislation has been referred to in relation to the circumstances of that case, in which a tag was removed, and the legislation that was recently passed by Parliament that created a new offence of being “unlawfully at large” was, in part, a response to such circumstances.

I absolutely understand the deep distress of families in that situation. If it was a member of my family, I would be in exactly the same position. The Scottish Government has a responsibility to respond and to make considered judgments on such matters, and we will always seek to do that.

**Richard Leonard:** I accept that that separation of powers exists, but it was the choice of the Scottish Government not to make FAIs mandatory in cases such as that which led to the death of Craig McClelland. The two process reviews that were conducted following Craig’s tragic death

highlighted significant failures in the home detention curfew system, which only strengthened the case for an independent inquiry.

Craig McClelland’s family have met the Cabinet Secretary for Justice. They have listened to what he has to say, but they have no confidence that lessons have been learned. Last month, the justice secretary laid before Parliament new regulations on the use of tagging equipment just three days before they were due to come into force. He breached parliamentary procedure, side-stepped full scrutiny and potentially put public safety at risk.

It is the First Minister’s duty to ensure that the public has confidence in the justice system. The families of Craig McClelland and Allan Marshall have been badly let down and have lost their faith in the system. If they have no confidence in the justice system, why should anybody else?

**The First Minister:** I fully understand why families who face the circumstances that those particular families have faced would feel the way they do, and I would be the last person to suggest that they should feel otherwise. The Government must ensure that lessons are learned. The justice secretary has set out to the Parliament the different lessons that have been learned and the steps that have been taken to make changes in a number of areas as a result of not just this case but other very tragic cases that we have seen. It is our responsibility, which we take very seriously and discharge, to make sure that we have a sound and solid justice system—respecting the separation of powers, of course, which is important in all these matters—and we will continue to do that.

There are some circumstances—deaths in custody, for example—in which fatal accident inquiries are mandatory. Beyond that, careful consideration is given to whether to have FAIs, and it is important that such decisions are for the law officers to make, having taken appropriate account of all the circumstances. I am sure that the Lord Advocate would be more than willing to respond further on this particular case, but it would not be appropriate for me to step into the Lord Advocate’s shoes on the decisions that are made, which are taken extremely seriously.

In general terms, the Government will always seek to respond carefully, sensitively and appropriately when issues such as the one that has been referred to arise, so that we learn the right lessons and, where necessary, make the right changes.

**The Presiding Officer:** We have some constituency questions. The first is from Kenneth Gibson.

### Trans Women in Prisons

**Kenneth Gibson (Cunninghame North) (SNP):** Last night, I attended a meeting with 12 other MSPs and around 50 people, mostly from front-line women's organisations, to discuss women's sex-based rights. We heard from one of my constituents, who is a retired prison governor, that, although the Scottish Prison Service would not contemplate placing a trans man in a male prison, it has fewer qualms about placing a trans woman who is still physically male in a female prison. A risk assessment takes into account only a trans woman's propensity for violence; it does not assess the potential psychological impact on female prisoners, many of whom are extremely vulnerable, having endured years of violence at the hands of male perpetrators. That can have, and has had, serious impacts on the mental wellbeing and rehabilitation of vulnerable female prisoners. Is not it time to ensure that people who are physically male are no longer admitted to female-only prisons?

**The First Minister (Nicola Sturgeon):** I am not aware of the terms of the discussion that was had last night, beyond what Kenny Gibson has narrated in the chamber, but I am more than happy to ask the justice secretary to respond in detail on the particular point.

More generally, this is obviously a sensitive and controversial issue. It is very important not only that we respect and protect women's rights—I have spent a lifetime as a committed feminist doing exactly that—but that we respect and protect trans rights and allow a proper debate, as the Government is seeking to do with draft legislation, to convince those who have concerns about the issue that there is not a tension and inevitable conflict between women's rights and trans rights. That work is under way and the Government will continue to take it forward in a responsible and sensitive manner.

### Penman Engineering (Administration)

**Oliver Mundell (Dumfriesshire) (Con):** Following yesterday's devastating news that Penman Engineering in Dumfries has entered administration for the second time, what steps will the Scottish Government take to help to secure the future of the company and its regionally significant, highly skilled manufacturing jobs? Can the First Minister assure my constituents that her Government will provide every possible support to employees and their families at this difficult time, particularly so soon after the festive period?

**The First Minister (Nicola Sturgeon):** Yes, I will give that assurance. That is how the Government always seeks to operate in these very difficult situations. I take the opportunity to express my concern about Penman entering administration

and, of course, about the impact that that has in terms of the 44 jobs that, as I understand it, are immediately lost as a result. The Government's immediate concern is the workforce, and we will do all that we can to support them. Affected employees have already received information on partnership action for continuing employment—PACE—support and I understand that arrangements are under way for a PACE event to be held in Dumfries next Monday, 20 January. Scottish Enterprise is also establishing contact with the administrators to provide whatever support it can, working closely with partners in the South of Scotland Economic Partnership. I will ask the economy secretary to keep the member fully updated.

### Fatal Accident Inquiry (Milly Main)

**Anas Sarwar (Glasgow) (Lab):** It is almost three years since Milly Main died after contracting an infection from the water supply at the Queen Elizabeth university hospital campus. Unbelievably, Milly's parents were not told the true cause of her death at the time. The health board knew that the water supply was not safe and posed a high risk of infections when the hospital opened, it failed to follow protocols and it did not report Milly's death to the Crown Office and Procurator Fiscal Service.

How Milly's family have been treated is nothing short of a disgrace. It is right that we have a wider public inquiry, but there must be a specific inquiry into the circumstances of Milly's death. Her mother, Kimberly, said:

"The health board has let us down at every step of the way and kept us in the dark.

We believe Milly would still be alive today if the managers had listened to all the warnings of infection risk when the"

hospital

"first opened. We have lost all faith in the health board and its leadership."

She said that the family want

"answers about Milly's death ... so that no family has to go through this ordeal again."

She said:

"We are calling for a fatal accident inquiry to uncover the truth."

Does the First Minister agree with her?

**The First Minister (Nicola Sturgeon):** I absolutely sympathise with Kimberly, Milly's mum, and her wider family. What they have gone through is completely unacceptable, and I think that everyone's heart is with them at this time. Of course, it is precisely because we want to make sure that Milly's family or any other family get the answers that they consider they have a right to—

and they do have a right to those answers—that we have taken the decision to establish a public inquiry. I know that Anas Sarwar has welcomed that.

I absolutely understand and sympathise with the call for a fatal accident inquiry and the reasons behind that. Obviously, as I have just said in my exchange with Richard Leonard, decisions on fatal accident inquiries are entirely for the law officers, not the Scottish Government. However, I am sure that the Lord Advocate will listen carefully to the representations that Milly's family are making and will respond in due course, which I hope will be as quickly as possible.

### **Care Sector (Mistreatment of the Elderly)**

**Alexander Stewart (Mid Scotland and Fife) (Con):** Like me, the First Minister will no doubt be appalled by the news that hundreds of elderly people have been mistreated by staff in care homes across Tayside and Fife in recent years. Some 939 complaints have been investigated and upheld by the Care Inspectorate. Everybody in Scotland has the right to safe, good-quality and compassionate care that meets their needs and respects their rights. What urgent steps will the Scottish Government take to ensure that such treatment is eradicated from our care sector?

**The First Minister (Nicola Sturgeon):** The vast majority of elderly people in our care homes across the country get excellent care by dedicated members of staff, and I think that it is important that all of us recognise that.

The member is absolutely right that any elderly person who does not get that excellent standard of care is being let down. In relation to actions, we have a Care Inspectorate whose job is to make sure that there is robust and rigorous investigation of any complaints and to carry out general inspections of care homes. When it does that job and finds failings—we had issues raised in that regard last week—it makes recommendations. It is incumbent on care homes, local authorities and the Scottish Government to progress any recommendations that are directed at them, and that is what I expect to happen.

Many of us have elderly relatives. We should always consider such matters from the perspective of the care that we would want our relatives to have. That is the standard that all of us should expect to be upheld for everyone in a care home anywhere in Scotland.

### **Scottish Welfare Fund**

**David Stewart (Highlands and Islands) (Lab):** The First Minister will be well aware of the concerns that the leader of Moray Council expressed this week about the severe cash

shortfall in the local Scottish welfare fund. Front-line benefit staff say that there has been a rise in the number of people who are feeling suicidal and the number of people with acute mental health and drug issues. Does she share my concerns about that? What comfort can she give to the hard-pressed front-line staff in Moray and the highly vulnerable people whom they serve?

**The First Minister (Nicola Sturgeon):** I of course share some of that concern. It is because we have concerns about the impact of austerity and welfare cuts on many people across the country that the Government established the welfare fund and continues to fund that vital support for people who need it. The welfare fund is under pressure in many parts of the country because of the increasing demand that is being brought about by deep welfare cuts and the continuing effects of austerity. As Dave Stewart and other members know, we are in a budget process right now and these are all matters that we will continue to consider very carefully.

However, in this area in particular, it is important that we focus on the source of the problem. Although we will always do everything that we can to mitigate the impact of the cuts, the sooner we in this Parliament get into a position where we can stop the situation in which the poorest in our society are treated in this way through welfare cuts, the better. Let us focus on tackling the source of the problem, rather than focusing only on what we can do to mitigate it, which we will of course always continue to do as far as we can.

### **NHS Grampian (Waiting Times)**

**Tom Mason (North East Scotland) (Con):** According to the latest statistics, 44 per cent of chronic pain sufferers in NHS Grampian waited longer than the 18-week target for their first pain clinic appointment. The Affa Sair patient group has been trying to organise a meeting to discuss the issue with the Scottish Government since October, without success. The group said:

“the lack of care, respect and compassion by the Scottish Government is a national disgrace”.

In addition, the Cabinet Secretary for Health and Sport cancelled her appearances at the past two meetings of the cross-party group on chronic pain, leaving patients from across the country without answers. With that in mind, will the First Minister take personal charge of the situation to make sure that patients get their meeting with the Scottish Government and, more importantly, the improvement in treatment that they desperately deserve and need?

**The First Minister (Nicola Sturgeon):** I was not aware of the meeting request until Tom Mason raised it in his question. I will certainly be happy to

have that looked into, and I am sure that the health secretary will be happy to meet any organisation that wants to discuss those issues. The health secretary tells me that she is due to meet the co-conveners of the cross-party group—I think—shortly in order to discuss those issues.

More generally, our waiting times improvement plan is not just targeted at chronic pain but applies across the health service and is about ensuring that we reduce waiting times and that people are treated within those targets.

### Citizens' Rights

**3. Alison Johnstone (Lothian) (Green):** Presiding Officer,

“No’ means we stay in—we are members of the European Union.”

That is what Ruth Davidson told Patrick Harvie, and the nation, during a television debate in 2014. We are now a fortnight away from losing our status and rights as EU citizens, our EU friends and neighbours are fearing for their futures, our children are denied the right to move, live, work and love in 27 other countries, and we are denied the right to have a say in our future. Does the First Minister agree that the people of Scotland deserve so much better, and will she tell us how her Government will use the powers that it has to stand against this assault on our rights?

**The First Minister (Nicola Sturgeon):** Yes. I agree that Scotland deserves so much better than a Conservative Government ripping us out of the European Union against our will. I do not believe only that we deserve better; I believe that we could have much better if we were an independent country and able to co-operate, within the European Union, in our own right. The Scottish Government will use all the powers at our disposal to mitigate the impact of Brexit, as we have been doing, for example, by providing support and advice to European nationals who have been treated utterly shamefully by the United Kingdom Government. We will continue to consider every way in which we can do that.

Of course Scotland deserves the right to decide its own future, and there is a fundamental issue at stake right now in Scotland. That issue is not, in fact, whether Scotland should be independent; it is who gets to decide and whether that should be the Scottish people, or Westminster. The issue is also whether the outcome of the general election should be respected in Scotland, as the Tories—rightly—demand that it is respected elsewhere in the UK. The Conservatives are running scared of Scotland having that choice, and I can understand why. However, they will not stop it; democracy denial will not prevail. The longer the Tories, and perhaps others in this chamber, persevere with the

attempt to deny democracy, the more certain it becomes that Scotland will be an independent country.

**Alison Johnstone:** The First Minister will share my concern that we will no longer be able to rely on the EU for access to environmental justice. It is clear that Brexit is being used by the Tories to roll back on workers’ rights and environmental standards. Let us not forget that the EU gave us so many of the protections that we take for granted today. Sadly, the Tories have thrown out the guarantees that those would be maintained in the European Union (Withdrawal Agreement) Bill. They have even used the bill to grab further powers from the Scottish Parliament, all because they are desperate for a Trump trade deal. Those actions are a clear statement of their intent.

We in Scotland must do everything that we can to protect people and our environment. Until we rejoin the EU as an independent nation, will the First Minister protect our access to environmental justice and establish Scotland’s own environmental court?

**The First Minister:** We will absolutely make sure that environmental standards, as far as we have control over them, are not in any way diminished. If anything, we want to go further. We absolutely do not want a race to the bottom. We are in the process of considering and deciding how we replace the environmental governance that will be lost from our leaving the European Union, and of course we are listening carefully to the representations that are being made around the detail of that.

However, that race to the bottom is a real concern. I met the Scottish Trades Union Congress yesterday as part of my regular meetings with it, and it fears a race to the bottom on workers’ rights. We could face a race to the bottom on consumer protections as well as on environmental protections and general standards of regulation. The Tories are obviously intensely uncomfortable right now, as this is being discussed, but there are Tories everywhere talking about the benefits of Brexit all being about the ability to reduce that regulatory protection, so those are real fears.

We will do everything that we can within our existing powers to protect Scotland against that race to the bottom, but the best way for Scotland to protect itself is for it to stop being at the mercy of Westminster Governments—particularly Westminster Tory Governments—and to have the right to choose a better future.

I am reminded of one of the many leaflets on the issue that the Tories issued during the general election campaign. I think that it was one of the last ones. It said to the Scottish people, “On

Thursday, you will decide whether or not there will be an independence referendum. The only way to stop it is to vote Scottish Conservative in Scotland.” Well, Scotland did not vote Scottish Conservative. They put the issue on the ballot paper, and they lost. It is time to give Scotland the chance to choose our own future.

**The Presiding Officer:** We have some further supplementary questions.

### “Government Expenditure and Revenue Scotland”

#### **Murdo Fraser (Mid Scotland and Fife) (Con):**

The Scottish Government’s 2014 white paper on independence described the annual “Government Expenditure and Revenue Scotland” report as

“the authoritative publication on Scotland’s public finances”.

Given that that is the Scottish Government’s view, why is the Cabinet Secretary for Finance, Economy and Fair Work now proposing an alternative set of propaganda figures to be published alongside GERS? On what data will those alternative figures be based? How much will that exercise in SNP spin cost the Scottish taxpayer?

**The First Minister (Nicola Sturgeon):** GERS, which the Scottish Government publishes every year, sets out the situation not under an independent Scotland but under Westminster government. Why would we set out different figures? So that we can show what we can do differently in Scotland and the different spending commitments that we could make—for example, spending more to grow our economy, spending more to protect the most vulnerable and not spending money on new weapons of mass destruction on the River Clyde. Those are the different choices that we can make, and that is one of the many reasons why the Tories are terrified of the prospect of giving Scotland the choice of independence, because they know that Scotland will choose to become independent.

### **Motor Neurone Disease (Drug Trial)**

#### **Claire Baker (Mid Scotland and Fife) (Lab):**

The First Minister will be aware of the fantastic news that MND Scotland, the Euan MacDonald Centre and the My Name’s Doddie Foundation launched a major motor neurone disease drug trial yesterday—the biggest and most innovative trial that the United Kingdom has ever seen. Two drugs are being tested as part of the MND systematic multi-arm adaptive randomisation trial, but there is flexibility to run more treatments through the trial in the future. What support can the Scottish Government provide to ensure that we keep discovering new candidate drugs to trial through the MND-SMART programme?

**The First Minister (Nicola Sturgeon):** Yesterday’s news about those drug trials for MND was fantastic; I think that everybody across the chamber is clearly of that view.

The Scottish Government has already met Doddie Weir, and we will meet others involved. We have a very good relationship with MND Scotland, which rightly keeps pressure on the Scottish Government to do everything that we can. We look forward to continuing to discuss the support that the Scottish Government can bring to make sure that, as we have done in the past, we are doing everything that we can as a country to get as quickly as possible to a position where we perhaps have a cure for this cruellest of diseases. I hope that members across the chamber will support those efforts—I am sure that everybody does.

### **Proposed International Commission**

#### **Angela Constance (Almond Valley) (SNP):**

What is the First Minister’s message to Labour supporters, who will rightly be mortified by the ill-considered and frankly offensive leadership pitch by Labour’s Lisa Nandy, who wants to set up an international commission against Scottish independence, presumably so that the United Kingdom can deal with Scotland as Spain has dealt with Catalonia? Surely that is a potentially inflammatory and undemocratic position to take.

**The First Minister (Nicola Sturgeon):** Angela Constance is right to raise that issue. I am going to try to give Lisa Nandy the benefit of the doubt. I am going to assume, hard though it might be to believe, that when she made her comments, she had not paid attention to what has actually happened in Catalonia in recent times. If she had, she would surely not have suggested that there are any positive lessons at all to be learned from that. Perhaps Lisa Nandy should take the opportunity to clarify exactly what she meant, recognise the concern that it has caused, and perhaps even apologise.

### **City Region Deals**

**Andy Wightman (Lothian) (Green):** The Auditor General for Scotland and the Accounts Commission have today criticised the city region deals for a

“lack of aims and objectives”.

What will the First Minister do to ensure that the billions of pounds that are committed to those directionless deals contribute to the transition to a zero-carbon economy rather than fund retrograde proposals such as the £120 million flyover at Sheriffhall in Edinburgh?

**The First Minister (Nicola Sturgeon):** We welcome today’s report, because it also highlights

the positive effect that city region and growth deals are having across Scotland in strengthening relationships between councils, the Government, business, universities and a range of other partners. We will, of course, pay close attention to the recommendations in the report so that we make sure that the governance and accountability are as strong as everybody would want them to be. The United Kingdom Government is a partner in city region and growth deals. I do not believe that Audit Scotland directed recommendations at it, because it is outwith Audit Scotland's remit. It is really important to recognise the benefit that those deals are bringing and will bring to communities across Scotland. That is why the Scottish Government funds them so substantially.

### Independence Referendum

**Mike Rumbles (North East Scotland) (LD):** The First Minister is fond of talking about democratic mandates, but does she recognise that, last month, 55 per cent of Scottish voters voted for candidates who were opposed to another independence referendum? *[Interruption.]* Members should listen to the Scottish voters. That level of opposition—*[Interruption.]*

**The Presiding Officer:** Order. Let us hear the question, please.

**Mike Rumbles:** That level of opposition has not changed one iota since 2014.

**The First Minister (Nicola Sturgeon):** Mike Rumbles might not have intended it, but he has just made an argument for having a referendum so that we can put that to the test.

We stood on a mandate and a platform to offer an independence referendum and give people the choice. We scored a higher percentage of the vote in Scotland than the Tories did United Kingdom-wide, but they still claim that the election result is a mandate for their form of Brexit.

If Mike Rumbles is confident in his view—I suspect that he is not—that Scotland still does not want independence, he should have the courage of his convictions and put that to the test. The Liberal Democrats were, of course, perfectly happy to propose and argue for a second referendum on European Union membership, so perhaps they should look at the consistency of their own position before they stand up to ask questions of that nature in the chamber.

### Erasmus Scheme

**4. Clare Adamson (Motherwell and Wishaw) (SNP):** To ask the First Minister what impact ending the Erasmus scheme would have on Scotland's further and higher education institutions. (S5F-03860)

**The First Minister (Nicola Sturgeon):** Scotland does exceptionally well from Erasmus+. Proportionally, more students from Scotland than students from England, Wales and Northern Ireland study abroad under the programme, and more Erasmus students from across Europe come to Scotland than they do to anywhere else in the United Kingdom.

Ending our participation in Erasmus would be a huge step backwards. It would be a disaster for our universities, whose campuses enjoy the diversity and internationalism that the programme brings, and it would be a disaster for our students. The ability to study abroad, learn about new cultures, develop self-confidence and improve language skills should be championed and certainly not abandoned.

**Clare Adamson:** It is not surprising that Scotland does so well, given that Madame Ecosse—Winnie Ewing—was instrumental in establishing the Erasmus programme.

Boris Johnson has claimed that Erasmus will continue as normal. That is cold comfort, given that his party voted against continuing with the scheme during the progress of the European Union (Withdrawal Agreement) Bill. Does the First Minister agree that Scotland and our European neighbours reap huge cultural and educational benefits from Erasmus and that it is incumbent on the UK Government to legally guarantee the continuation without delay?

**The First Minister:** Yes, I agree. If the Tories' assurances on Erasmus were worth anything, they would not have voted against legally protecting the scheme when they had the opportunity to do so last week. Safeguarding the future of our participation in Erasmus is essential. I believe that that has broad support around the whole country, including in the chamber.

It is important to note that the programme supports not just students but schools, youth groups and sports clubs. It provides them with the opportunity to learn and grow from time spent abroad. That is why the Scottish Government continues to put to the UK Government that it must urgently confirm its intention to participate and set out exactly how it will operate.

Our preference, of course, is for the whole of the UK to remain associated with Erasmus, but we are considering what routes are available that would allow Scotland to remain a member of it in the event that the UK Government chooses to abandon the programme.

### Wild Salmon Stocks

**5. Peter Chapman (North East Scotland) (Con):** To ask the First Minister what measures

the Scottish Government is taking to address the reported crisis in wild salmon stocks. (S5F-03858)

**The First Minister (Nicola Sturgeon):** This is Scotland's year of coasts and waters. Last week, the Scottish Government announced £750,000 of funding for a project to investigate the migration of wild salmon on the west coast. That builds on an on-going programme of research and monitoring, which includes the Moray Firth tracking project. The project will help to develop a body of evidence on the complex challenges that salmon stocks face in Scotland.

In addition, we committed in the programme of government to the development of a wild salmon strategy. Working with key stakeholders, we will continue to do everything possible to safeguard the future of Scotland's wild salmon.

**Peter Chapman:** At the start of the new salmon season, I reflect on the iconic status of wild salmon in Scotland's history and culture and on the fact that angling still supports many jobs in rural Scotland. I welcome the measures that the First Minister mentioned, such as the £750,000 grant to track salmon on their journey across the north Atlantic. I hope that that will lead to a better understanding of the challenges that salmon face on their migratory routes.

Wild Atlantic salmon are a powerful symbol of the health of our rivers and oceans. The first task is to make the issue a conservation issue of the highest importance. Will the First Minister commit to working across international borders to ensure that we do not lose that valuable species? Does she believe that the Rural Economy and Connectivity Committee's recommendations on aquaculture are being actioned fast enough to ensure that salmon farms are environmentally sustainable as they continue to expand?

**The First Minister:** I agree with much of the thrust of that question. The issue is a challenge across the north Atlantic and is not unique to Scotland, but it is important that we take the actions that I have already set out.

I very much agree with Peter Chapman's comments about the iconic status of wild salmon in Scotland as well as with his economic point. Angling makes a key contribution to many rural areas in Scotland.

On the conservation point, we already have a rigorous regime of statutory salmon conservation orders, which are refreshed annually. The 2020 conservation assessment takes account of the most recently available catch return statistics in determining the status of a number of rivers and river groupings. Regulations for the 2020 season were laid in December and will be considered by the Rural Economy and Connectivity Committee.

More broadly, we have continued the ban on the coastal netting of wild salmon around Scotland, which was introduced in 2016, and we will continue to carefully consider any recommendations that the committee makes.

#### **Police Scotland (Compensation Payments)**

6. **James Kelly (Glasgow) (Lab):** To ask the First Minister what the Scottish Government's response is to reports that Police Scotland has spent £11.6 million in compensation over the last five years. (S5F-03853)

**The First Minister (Nicola Sturgeon):** Civil claims arise out of a wide variety of situations and are resolved according to their own particular facts and circumstances. The Scottish Government expects all public bodies to conduct litigation with careful regard to the public purse. It is, of course, for Police Scotland to determine the level of compensation payments. Those are dealt with individually on a case-by-case basis, and with a view to securing best value.

**James Kelly:** The fact that police compensation claims doubled between 2015 and 2019 demonstrates the scale of the problems that exist throughout Police Scotland. A recent survey revealed that, on the front line, nearly three quarters of officers had gone to work feeling physically unwell and that more than a third face mental health challenges. On resigning as chair of the Scottish Police Authority, Susan Deacon described governance and accountability in policing as "fundamentally flawed".

Does the First Minister agree that the Scottish Government should apologise to front-line officers for the disarray that currently exists in their working environment? Will she urgently set out what steps the Government will take to deal with the serious structural problems in Police Scotland?

**The First Minister:** I simply do not accept or agree with the general premise of that question. I certainly do not agree with James Kelly's characterisation of the situation.

The Scottish Government has worked, and will continue to work, to support the police service and front-line police officers. We have protected the 1,000 additional police officers that we committed to provide when we came into office in 2007, when police numbers elsewhere in the United Kingdom have plummeted over a similar period. We are also protecting the police service's revenue budget in real terms for the duration of the current session of Parliament. All those issues, including those that I have set out in the chamber in recent weeks in response, I think, to Willie Rennie, will be relevant in the on-going budget process. We and the police are taking a number of actions to

support the mental health and wellbeing of police officers.

Committees of this Parliament have carried out reviews of the structure and governance of the police, and improvements have been and continue to be made. I think that our police service does a tremendously good job, and it deserves our deep gratitude for that.

**The Presiding Officer:** That concludes First Minister's question time. We will have a short suspension to allow members, ministers and people in the gallery to change seats for members' business.

12:47

*Meeting suspended.*

12:50

*On resuming—*

## **Sustainable Development Goals**

**The Deputy Presiding Officer (Linda Fabiani):** The next item of business is a members' business debate on motion S5M-20261, in the name of Lewis Macdonald, on sustainable development goals. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament welcomes the publication of *On target for 2030?*, a report from civil society organisations co-ordinated by the UWS-Oxfam Partnership and the SDG Network Scotland; understands that this report aims to offer a snapshot analysis of progress in Scotland against each of the 17 Sustainable Development Goals, which officially came into force on 1 January 2016, from expert organisations operating within each relevant field; considers that the negative effects of slow progress on achieving Sustainable Development Goals are felt disproportionately by low-income households, including in the North East Scotland region, and that this undermines the pledge made by UN Member States to ensure that "no one will be left behind"; acknowledges that the report encourages Scotland to do more to meet its Sustainable Development Goals, and understands that progress in this area is not the responsibility only of government but also of business, the third sector and individuals, if Scotland is to fulfil its commitments by 2030.

12:51

**Lewis Macdonald (North East Scotland) (Lab):** I am delighted to speak to the motion and am grateful to all the members who signed it and to the many organisations that have provided briefings to support the debate, some of which are represented in the gallery.

The sustainable development goals are global goals. The 2030 agenda for sustainable development was agreed by the United Nations in 2015 as

"a plan of action of people, planet and prosperity."

The agenda aspires to

"end poverty and hunger ... protect the planet from degradation",

ensure "prosperous and fulfilling lives" for all and

"foster peaceful, just and inclusive societies".

Those are big ambitions that require innumerable actions by very large numbers of actors: Governments, intergovernmental agencies, non-governmental organisations, businesses, trade unions, voluntary and community organisations and individuals around the world.

We can be proud of the actions that have been taken by many people from and in Scotland towards achieving the goals worldwide. Whether

through NGOs, churches or faith communities, secondment from work in our public services, or directly as volunteers or as part of Government engagement with developing countries, many thousands of people make a real and substantial contribution to achieving the sustainable development goals in some of the poorest countries on the planet.

However, the global goals apply here, too. Scotland will be judged not only on the work that Scots do or support elsewhere, but on how we as a country measure up against the goals. That is why today's debate is focused on the latest report from Scottish civil society on progress in Scotland towards achieving the UN's global goals.

"On Target for 2030?" asks how we are doing here, measured against the same standards as the rest of the world, and it produces some challenging answers. The question really matters, so we are indebted to Oxfam, in partnership with the University of the West of Scotland, and to the SDG Network Scotland, for producing a comprehensive assessment.

We are also indebted to a total of 22 organisations in civil society for the informed and insightful contributions that they have made—from the Health and Social Care Alliance Scotland to the Built Environment Forum Scotland, from the Child Poverty Action Group to the Marine Conservation Society, from Girlguiding Scotland to the Scottish Trades Union Congress, and from the Joseph Rowntree Foundation to Business in the Community. Those organisations are all working at the front line on the whole range of sustainable development issues across Scotland. Scotland's International Development Alliance puts all that in the context of Scotland's place in the wider world, and emphasises that all the goals must be addressed together, not separately.

The report is a sobering assessment. Given that many of our constituents rely on food banks to feed their families, members will not be surprised to learn from Nourish Scotland that 8 per cent of the Scottish population described themselves as "food insecure". Perhaps less familiar are the findings of research by Citizens Advice Scotland, that

"12% of households in Scotland may struggle to afford their charges"

for water and sewerage, and the projection by Changeworks, that the current Scottish Government target

"means that in 2040, 5% of the Scottish population will still be in fuel poverty, due to poor energy efficiency."

A common thread among many of the analyses is the need to tackle inequality. Another is the need to do so with the participation of the people who are affected by inequalities. Oxfam quotes

figures from the Office for National Statistics that confirm that

"the wealth held by the top 10% of households is around five times greater than the wealth of the bottom half combined."

Oxfam concludes that

"until we address inequalities of power and political participation, progress on addressing economic inequality will be hindered."

The Joseph Rowntree Foundation demonstrates that, in recent years, Scotland has simultaneously reached record levels of employment and record levels of in-work poverty, which taken together mean that we have not met the sustainable development goal of "decent work for all". The STUC highlights some sectors in which poverty pay holds back workers, particularly women, and calls for sectoral agreements to set minimum terms and conditions in social care and to promote collective bargaining in early learning and childcare.

Disturbingly, in the context of the goal of inclusive and sustainable economic growth, the STUC reports

"daily stories from young hospitality workers about bullying, harassment and unpaid wages".

They are the kind of stories that we would hope not to be hearing in the 2020s.

What is to be done? The editors of "On Target for 2030?" do not attempt to summarise the range of contributions, but they draw some conclusions, which I hope the minister will address in closing the debate. Among other things, they conclude that

"whilst there is clear policy and political commitment on all of the Goals in Scotland, more needs to be done in order to meet the 2030 targets",

that

"There is a lack of available, high-quality Scotland-specific data in some policy areas",

and that

"further work is needed to improve and build upon"

the existing "fairly loose alignment" between the outcomes and indicators in the Scottish Government's national performance framework and the UN's sustainable development goals.

In briefing members in advance of today's debate, the SDG Network Scotland built on those conclusions with specific asks of the Scottish Government and the Scottish Parliament. The network supports the Scottish Government's approach of carrying out a supplementary review to support the report by the UK, as the member state of the United Nations. The network says that the supplementary review was prepared on a transparent, collaborative and innovative basis,

and that it provides a model that the UK Government would do well to follow. However, thus far, the report is available only online in draft form, and the network is keen for it to be concluded and published in its final form as soon as possible. I hope that the minister can give an undertaking on that today.

The SDG Network also calls on us, as a Parliament, to align our remits more closely with the sustainable development goals, with regular debates in the future to hold the Government to account on progress. As members of Parliament consider what priorities we might wish to suggest for members in the next session of Parliament, this might be the right time to highlight the 2030 agenda for sustainable development as a proper focus for the 2020s.

12:58

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** I thank Lewis Macdonald for the opportunity to discuss a substantial report of 82 pages, including what would probably best be called essays from 17 contributors. A rough count suggests that there are more than 200 references that lead the reader to further reading, so it is not only the report that is in front of us, but what underpins it that help us to have a proper discussion about whether we are on target to meet the United Nations sustainable development goals by 2030.

On our walks to Parliament and elsewhere, we all see the visible evidence of homelessness, and I am sure that many members will have spoken to people whom we see on the streets. Every 18 minutes, which is about the time it takes to get a bus down to Parliament from the centre of town, someone in Scotland becomes homeless.

Under the sustainable development goals, we have a target to get to zero poverty by 2030, which includes achieving zero hunger and achieving good health and wellbeing. In 2015, the First Minister adopted that target to help to reduce inequality across the globe, but inequality continues to exist in Scotland, as it does elsewhere.

Lewis Macdonald referred to people who are food insecure. Twenty-five per cent of our children live in poverty, and figures suggest that that will rise if we do not see amelioration of and response to Westminster's position of financial constraint and austerity. Too many people rely on food banks, and nutritious food is yet to be accessible to and affordable for all. One of the things that my wife always thinks about at Christmas—it is actually at the top of her shopping list—is what she will buy to take to the food bank. I hope that

others do the same, although it is disappointing that we have to do so.

That leads us to the broader question of socioeconomic disadvantage and marginalisation, which exists in the wealthy north-east of Scotland as it does in other parts of our country. That inequality relates to discrimination against women and too much unhealthy eating.

Are we on target to meet our goals? We are making progress on a number of targets, particularly on water and sanitation, energy share from renewables and forest management. It is an all-encompassing agenda. Steps towards the eradication of poverty and the phasing out of food banks have been made, along with the creation of the Scottish welfare fund, which provides cash grants that assist people in need.

There are tools that we can use—the report by the University of the West of Scotland and the Oxfam Partnership and the work of the SDG Network Scotland show that there has been progress. We are some distance from 2030, but the reality is—as one gets older time seems to speed up—that 2030 is almost tomorrow in planning and policy terms.

I am pleased to see businesses, individuals and civil society standing behind the effort. We are making progress on perhaps only a minority of the indicators in the national framework that relate to the issue, but we are making progress. We need a coherent approach; the proposal that Lewis Macdonald made on aligning Parliament's activities more closely with the issue is not one that I had heard before, but it is interesting.

I close by congratulating all who have been involved with the report and saying that I hope that we hear some interesting things from the minister.

13:02

**Jamie Halcro Johnston (Highlands and Islands) (Con):** I congratulate Lewis Macdonald on bringing the debate to the chamber.

I will say a few words about the significance of the sustainable development goals. They are important aspirations that were agreed by the 193 countries that participate in the United Nations, and they follow and build on the previous work of the millennium development goals. They were crafted at a decisive point in our history and reflect the world's shared hope that a better and fairer planet can be created.

They are common goals that are shared around the world. Some start from a lower base than others, some in very different circumstances to ours, as I will touch on later. That unified effort should drive us both here and locally.

That is not to argue that the goals are beyond criticism. We can see that there will sometimes be practical trade-offs between objectives, and we will have to make sensible judgments. The goals have been seen by some as being more diffuse than the millennium development goals that preceded them. However, as aspirations they point us forward in a positive direction.

Lewis Macdonald's motion refers particularly to his region of North East Scotland, although we should consider that, while we debate the issue, progress will be being made in hundreds of small ways in communities across the globe. Indeed, many assessments recognise that the policy commitment to the SDGs here, in Scotland, is strong. However, ultimately, it will be what happens on the ground and the positive impact that the goals make to lives and communities that will be measured. Therefore, it is certainly worth reflecting on the local angle to building progress towards common objectives and on some of the contrasts that can exist.

My region, the Highlands and Islands, is quite different from much of the rest of Scotland. We can look with some pride on the contribution that we are making at the same time as recognising some of the difficulties. SDG 7, for example, highlights the importance of affordable, sustainable and modern energy for all. Looking around my region, I see projects such as the European Marine Energy Centre in Orkney making a global impact and driving forward progress that can provide benefits not only locally but across the world.

There are many other examples of technology driving forward progress. However, on the other hand, we still have a high concentration of homes in energy poverty, which are often off-grid and without financially viable alternatives to unsustainable oil heating. When we consider approaches to renewable heat, it is vital that we take into account the many communities that are still left behind.

Some of the differences are now enshrined in law. I am thinking, for example, of the Islands (Scotland) Act 2018. However, as we enter the 2020s, it is clear that there must be a change in pace for real progress to be made.

At the general assembly last year, the state parties committed to

"gearing up for a decade of action and delivery for sustainable development".

There is little doubt that acceleration of such action is on the table for the decade ahead—and it will be necessary if ambitious progress is to be made. In the Highlands and Islands, we are used to delay and being at the back of the queue for development. However, for sustainable

development to be meaningful, development must occur.

We can look around the world for great examples of societies that have made rapid progress in recent years. Often, we have played a hand in that progress. The UK's international development work is a huge credit to this country. The UK has worked with international partners to build on development goals around the world, often in difficult circumstances, in areas recovering from conflict, in underdeveloped rural communities and in places that are hard to reach. That should drive us on to make sustainable development a priority at home, too.

Scotland does not have such disadvantages—the Highlands and Islands region does not either—but instead of development we have, too often, seen decay, a decline in public services and the Government's inability to adapt quickly to meet people's changing needs. Sustainable development is about looking forward to the future. That cannot happen without real development in our communities now.

13:07

**Claudia Beamish (South Scotland) (Lab):**

Thanks must go to Lewis Macdonald for initiating this important debate. The strong interest and wide range of valuable briefings are testament to the significance of the sustainable development goals in and for Scotland.

In its briefing, the Scottish Wildlife Trust stresses that

"Agenda 30 was designed to be interconnected—but the current approach is fractured."

The SDGs and our national performance framework are our compass—both moral and directional—in tackling extreme poverty and inequalities, combating climate change and so much more. None of the aims can be achieved in isolation. I suspect that political parties, Governments and civil servants still find it hard to break the habit of working in portfolio silos, which has an apparent simplicity, but we fail to do that at our peril.

The 13th of the SDGs is on climate action and, to my mind, is relevant to the achievement of all the other goals. That section of the report by Oxfam and the University of the West of Scotland was authored by Stop Climate Chaos, whose collective work in coalescing parliamentarians around this action in the climate emergency I want to recognise.

The World Economic Forum's "Global Risks Report 2020", which was published yesterday, reinforces the grave concerns that exist across Scotland today—I am sure that I do not need to

highlight them for the Parliament. Action on climate change is urgently needed, but if it is delivered without justice, it is simply a pyrrhic victory.

The Scottish Government should be disappointed that the report by Oxfam and the University of the West of Scotland finds that the Government's current commitments

"do not stack up to the levels of urgent action we need."

The next decade, leading to 2030, will be crucial, and I am proud that Scottish Labour's amendment to create a steeper interim target in the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 was agreed to. It is right that the Scottish Government accepted the Labour amendments that added to the legislation the requirement for consideration of and reporting on the SDGs and the impact on the global south.

We must all work together to shape the Scottish Government's updated climate change plan. There must be a just transition for agriculture and land use, with nature-based solutions. Transport and energy efficiency are in all our interests.

The section of the report on SDG 13 concludes by proposing that

"Scotland could pioneer parliamentary or policy mechanisms which ensure policy coherence and which scrutinise policies that contradict domestic and international climate policy commitments."

We can do that together. The Scottish Government is making a start, as is the Environment, Climate Change and Land Reform Committee. We need to work together. With COP26 taking place here, in Scotland, we will have the chance to be inspirational leaders in contributing to tackling climate change in a fair way, but that cannot be done without policy and action. Ambition is not enough.

Perhaps the most complex and challenging SDG to tackle through collective action is SDG 14, "Life Below Water". As we move into the year of coasts and waters, in parallel with significant showcasing, we must scrutinise SDG 14 and ensure that our policies and actions always take it into account. We can be leaders here, too, recognising the actions that are needed to enhance our marine environment, as we committed to doing in the Marine (Scotland) Act 2010.

The report states:

"The restoration of 'blue carbon' stores can contribute toward mitigating and adapting to climate change by making our oceans more resilient to change."

More broadly and importantly, it states:

"Without a step-change in approach we risk losing not only iconic nature, but also the ecosystem service benefits that a healthy marine environment provides for people,

including food, energy, recreation, and a sense of wellbeing."

Here, the interconnection with other SDGs is in sharp focus and has a clear global as well as Scottish resonance.

The 2030 agenda declares:

"The sustainable development goals and targets are integrated and indivisible."

We need to take account of that as we move towards 2030 and beyond.

13:11

**Patrick Harvie (Glasgow) (Green):** I thank Lewis Macdonald for bringing the motion and the debate to the chamber.

The SDGs have changed the relationship between international development and domestic policy. In many ways, they are a recognition that we need a coherent integrated approach. Rather than seeing those as separate spheres of policy, we must see them as coherent.

I will reflect on the way in which the position of international development has changed in this Parliament. Before I was elected, I worked in sexual health. When I was first elected, I fell into conversation with Susan Deacon who, as Minister for Health and Community Care, had established the first sexual health strategy. We were concerned that the strategy was gathering dust on the shelf and was not going to be properly implemented, so we set up a cross-party group on sexual health, which we thought would have an overwhelmingly domestic focus. We were quickly invited to take part in European and then global discussions with other parliamentarians working on the same agenda at the domestic and global levels.

Sexual and reproductive health and rights are indivisible, and the values that drive our progress on the domestic aspect of those issues, in relation to HIV, maternal health or anything else, are also the values that drive us to take action on the global stage to achieve many of the same objectives in international development. That interconnection between domestic and international policy has developed hugely over the years, and the SDGs are a global recognition of that.

The issues that MSPs will want to talk about cover many of the themes that have been touched on already. Soon I will invite MSPs to take part in an event in Parliament led by young people, who have been involved in work with Project Scotland to look at what they consider to be the most important aspects of the SDGs and how those relate to their lives in Scotland, as well as the issues that must be taken on globally.

If members decide to come along to that event on 25 February—I will plug it now—with young people leading the discussion, they will hear about the emphasis on education in SDG 4 and about the need for financial education for young people in Scotland. The young people recognise that we are not addressing that adequately yet, and that we need to do better to ensure that young people growing up in Scotland, who will face much more severe financial pressures than previous generations did, are equipped with the necessary skills.

The young people will also focus on SDG 13, on climate action. It is interesting to reflect on that on a day when we know that Extinction Rebellion activists are taking their demands for urgent change to Shell and the climate criminals of the global fossil fuel industry, who have a long-standing track record of blocking the action that is needed on climate change. On 25 February, the young people will be talking about the importance of divestment from the fossil fuel industry and the need to break our reliance on it.

The young people will also talk about SDG 5, on gender equality. In particular, they are keen to raise issues that relate to the experience of young trans people. As we heard from the First Minister during First Minister's question time, there is a real need to recognise that feminism and the advancement of women's rights and the wider gender equality agenda are not just compatible with but necessarily linked to trans people's human rights. Whether everybody in this Parliament gets that yet remains to be seen, but, overwhelmingly, the younger generation get it and want that argument to be heard.

I close by encouraging members to keep an eye on their inboxes for my invitation to the event on 25 February, so that they can hear what young people in Scotland have to say about the SDGs.

13:16

**Bill Kidd (Glasgow Anniesland) (SNP):** I thank Lewis Macdonald for bringing to the chamber this discussion of progress on these important global goals, and to Oxfam for its collaborative approach to assessing the SDGs and its insightful snapshot report.

It is clear from the high level of engagement in the SDGs and the review process from across a broad section of Scottish civil society that the global goals are useful and relevant to our country. The SDGs are a tool for galvanising efforts in reducing poverty and creating a more peaceful and just society in Scotland.

Although this Parliament is not yet able to legislate on all areas relating to SDGs, Dr Graham Long's consultancy work shows that, under acts

such as the Child Poverty (Scotland) Act 2017 and the Community Empowerment (Scotland) Act 2015, among others, action can be taken to bridge the gap in legislative power. Consequently, those acts and other Scottish Government policies and initiatives bring us closer to achieving the SDGs. Examples range from Scottish Government campaigns to maximise benefit take-up to the provision of free school meals.

The goals are, by definition, ambitious. How do we go about achieving them, particularly when some issues can seem intractable or require complex solutions alongside the investment of substantial sums of money in projects and people? Although we will never be able to fully eradicate inequality in all its forms, our collective imperative is to address injustices to the best of our ability, with our attention going to those who are most disadvantaged, such as those who live in poverty. That equitable effort defines the global goals.

My colleagues in the chamber will know that I am an advocate for nuclear disarmament, and my reason for that is the inhumanity of nuclear weapons. Last October, I spoke at the UN in New York in support of Move the Nuclear Weapons Money's campaign, using the SDGs as a point of comparison with the money that is wasted annually on nuclear weapons across the world. Globally, more than \$100 billion is spent every year on the maintenance and development of nuclear weapons. As an illustration of how much money is wasted, we asked people in the street to count out mock million-dollar notes and place them into baskets representing each of the 17 SDGs. After a week's worth of counting, we managed to redistribute \$542 billion to the 17 goals—and \$542 billion is the approximate amount of money that will be spent on nuclear weapons from 2020 to 2025. Although money cannot solve everything, I know that spending \$542 billion on tackling poverty, the climate and protecting women and girls from violence would go a long way towards achieving those goals.

At times, we might feel overwhelmed by the task of ending poverty, hunger and the many other issues that are covered by the global goals. However, if we recognise how much money is spent every year, without real questions being asked, on weapons that thankfully have not been used since 1945, we should accept that moving substantially closer to achieving SDGs is as much a matter of priority as it is of challenge.

When it came to my turn to allocate million-dollar notes to the SDGs, I chose to put my lot into the baskets representing no poverty, climate action and peace. I ask my colleagues to consider which goals they would personally prioritise, and whether that would be a better way to spend \$100

billion a year, rather than pouring it into weapons of mass destruction.

Once again, I thank Oxfam and many other organisations in Scotland for their continued work towards achieving the SDGs. May the next 10 years see real and substantial change.

13:20

**Monica Lennon (Central Scotland) (Lab):** I congratulate Lewis Macdonald on bringing to the chamber this important debate on the “On target for 2030?” report, analysing Scotland’s progress against each of the sustainable development goals.

I will focus my remarks on the progress that we are making towards achieving gender equality, and on health inequalities.

On SDG 5, which Patrick Harvie mentioned, I think that we can agree that we are making positive progress towards gender equality, but we have much more still to do. The Domestic Abuse (Scotland) Act 2018 is a good example, as is the Gender Representation on Public Boards (Scotland) Act 2018, but we cannot be complacent.

I note that there is a commitment to better recording of hidden sexual harassment within schools, but we need to go further. I agree with Girlguiding Scotland and others that national guidance is needed for our schools so that we can have a zero-tolerance approach to sexual harassment.

The legislation on public boards is a step in the right direction, but I think that we all want to go further with positive measures to increase women’s representation and participation in political, economic and public life. Women 50:50, for example, has pushed all political parties—some have been easier to push than others—to ensure that they have 50:50 representation on their candidate lists.

Lewis Macdonald talked about some of the challenging questions that we need to address, and I am pleased that Patrick Harvie spoke passionately about gender equality. This Parliament has the power to decriminalise abortion, but I am not sure that it is ready to have that conversation or that there is a majority for doing that. We are behind some of the rest of the world on that issue, and if we want to lead the world those are the issues that we have to face up to.

The Scottish Government and health boards across Scotland are allowing very long waiting lists to exist for access to sexual and reproductive healthcare services; women are struggling to

access contraception and other health services, and that is not good enough.

It will be no surprise to members that I want to talk about periods and access to period products, but this is about more than access to products: it is about period dignity and equality for everyone who menstruates. My member’s bill—I am not embarrassed to say that this is another plug for it—is at stage 1. I urge all members to listen to civic Scotland and to the wide support that exists, and to allow the bill to advance beyond stage 1 so that we can seek to improve it together. If we want to take bold and ambitious action, that is a perfect example of world-leading legislation.

I welcome initiatives that have been undertaken by the Scottish Government and others in the public sector to tackle period poverty in a targeted way, but we need a universal scheme that will leave no one behind. I am delighted that the Scottish Women’s Convention, Engender, the Young Women’s Movement and many others have agreed on that approach.

Girlguiding Scotland gave us a helpful briefing, and I want to congratulate it on the work that it has done on period equality. It has created an end period poverty badge, which is fantastic. In the region that I represent, 1st Stonehouse rangers completed the badge and has made donations of period products to South Lanarkshire women’s aid and beyond. Good work is happening but, as Alliance Scotland told us in its briefing, health inequality is a serious issue.

On life expectancy, we cannot continue to have people who live in the poorest areas in Scotland expecting to have 20 years less on this planet than those who live in the most affluent parts.

I agree with others that we need to be bold and ambitious. There is no room for complacency. We can pat ourselves on the back for some things, but collectively we must all do better.

13:24

**The Minister for Public Finance and Digital Economy (Kate Forbes):** I thank Lewis Macdonald for securing this important debate and I thank the report’s authors, Oxfam Scotland, the University of the West of Scotland, SDG Network Scotland and the multiple contributors. I know that a lot of stakeholders are in the gallery. The Scottish Government values enormously the work that they do in this area.

Contrary to Claudia Beamish’s view that we were disappointed with the report, the publication of “On Target for 2030?” was enormously welcome. It was really helpful because, as the report illustrates, we have been engaging widely with civic society in taking forward the important

agenda around the SDGs, including as an active member of SDG Network Scotland. Evaluation is fundamentally important and, if we are to ensure that we meet our targets for 2030, it is important that we do not just consider what we are doing internally, but that we have that international analysis of progress to date.

In 2015, Scotland was one of the first nations to sign up to achieving the sustainable development goals by 2030. That demonstrates our commitment to playing our part both in achieving the goals in Scotland and contributing globally. Patrick Harvie mentioned the way in which the relationship between the international development and domestic policy elements have changed over the years. We are very mindful that there are means by which we can mutually benefit in learning from other countries.

The UN's sustainable development goals offer a vision of the world. Jamie Halcro Johnston talked about the need for aspiration and ambition and it is about that, from ending poverty and hunger through securing education and health services to combating inequality and achieving gender equality. Those aims set an agenda for tackling some of the world's greatest problems, and we in Scotland want to pioneer outcomes, results and means by which we can meet the goals that might also be valuable to the rest of the world.

In signing up, the Scottish Government was required to demonstrate how it will work to achieve those targets by 2030. Many of the goals align with what we are already doing to tackle poverty and inequality, not just here at home but globally. However, the question for us all is how we can achieve that. Our internationally recognised national performance framework is the main vehicle by which we can deliver and localise the SDGs. Claudia Beamish rightly mentioned the importance of not working in silos, and the NPF brings it all together to ensure that there is a connection between different teams that are doing different things to achieve different goals.

The national performance framework is, essentially, Scotland's wellbeing framework. It has the same aspiration for social, environmental and economic improvements, defining a country's success as more than just growth in gross domestic product. The NPF is not just the Government's framework; it belongs to the whole of Scotland. One of the most important lines in today's motion is the last line, which is a rallying call to all Scotland to recognise the role that we can all play in embedding the SDGs and reaching them in the work that we do. The NPF fundamentally reflects the partnership principle that underpins the UN 2030 agenda. It enables us to mobilise partners, stakeholders and others on

those outcomes, so that they can join in with meeting the SDGs.

As all the reports recognise, good progress has been made since we adopted the SDGs, including our commitment to tackle child poverty and health inequality. However, there is no question but that work remains for us to do to meet the 2030 target. As Bill Kidd said, much comes down to prioritisation. The Scottish Government is committed to achieving the SDGs by creating a more successful country with opportunities for all Scotland to flourish, in every region and every background, through increased wellbeing and sustainable and inclusive economic growth.

Stewart Stevenson mentioned child poverty, which I will take as an example. In recent years, the Scottish Government has passed legislation—the Child Poverty (Scotland) Act 2017—published the tackling child poverty delivery plan and implemented the best start grants for low-income parents through the new Scottish social security system. Soon, we will start the new Scottish child payments. We should be proud of that programme of work, but we should also recognise what we are trying to achieve through it, which is to deliver on our commitments to tackle poverty. I believe that that will serve us well in meeting the SDGs.

That programme of legislation takes us closer to achieving goals that are ambitious but fundamentally and morally important. We will continue to take the necessary action to ensure that no one is left behind, which is at the heart of the NPF's goal for an inclusive Scotland with opportunity for all. What has been refreshing in this debate—Monica Lennon mentioned this—is the recognition of the need to reflect on progress to date. That is not about patting ourselves on the back, but about recognising the work that many different parties and stakeholders are delivering and the scale of the challenge. Fundamentally, the SDG goals must be ambitious and aspirational if we are going to deal with the inherent inequalities that still exist in this country. To do that, we need all of Scotland to work together.

Lewis Macdonald asked a specific question on the Scottish supplementary review. It is worth reflecting briefly on the background to that. There were significant limitations with the UK Government's approach, so the Scottish Government has been working collaboratively with stakeholders to develop content for our own specific Scottish review. There are fundamental differences between the UK Government and the Scottish Government in the approaches to some key issues—for example, SDG 1 on ending poverty is a particular challenge, given how strongly the Scottish Government feels about the UK Government's welfare reforms.

Working with the SDG Network Scotland, we have been trying to assess performance and highlight the challenges and opportunities in realising an SDG specifically in Scotland. We are at the last stage of finalising the Scottish supplementary review and it will be published imminently and shortly—before or by the spring, hopefully. As Lewis Macdonald mentioned, stakeholders are aware of the position and a draft report is available online on the SDG Network Scotland web page.

Fighting inequalities continues to be at the heart of the Scottish Government's vision for a fairer Scotland and it is enormously valuable when reports such as "On target for 2030?" highlight the work that has been done and what we still have to do to achieve our ambition.

13:32

*Meeting suspended.*

14:30

*On resuming—*

## Portfolio Question Time

### Justice and the Law Officers

#### Prisoner Accommodation (Gender Recognition Certificates)

1. **Johann Lamont (Glasgow) (Lab):** To ask the Scottish Government whether acquiring a gender recognition certificate gives a prisoner any new legal rights regarding the decisions that are made by the Scottish Prison Service about their accommodation. (S5O-04001)

**The Cabinet Secretary for Justice (Humza Yousaf):** Acquiring a gender recognition certificate does not and will not give a prisoner any new legal rights regarding the decisions that are made by the Scottish Prison Service about their accommodation.

Decisions as to the most appropriate location to accommodate transgender people are made on an individualised basis after careful consideration of all relevant factors, including risk. Such decisions seek to protect the wellbeing and rights of the individual and the welfare and rights of others around them, including staff and inmates, in order to achieve an outcome that balances risk and promotes the safety of all.

No changes are planned to that part of the process as a consequence of the proposed reforms on how a person can obtain a gender recognition certificate.

**Johann Lamont:** The justice secretary might be aware of serious concerns among some people who have direct front-line experience of working with women prisoners about the implications of the proposals for changes in the gender recognition certificate process. Does he agree that women prisoners are among the most vulnerable women in our society? What reassurances can he give that a full assessment will be carried out of the impact of any changes to the rules on prisoner accommodation on women prisoners and their wellbeing? Is he willing to meet women who have direct experience of working with female prisoners, who will be able to underline the seriousness of the concerns, ahead of final decisions being made on the Scottish Government's proposals?

**Humza Yousaf:** These are, of course, sensitive matters. I appreciate that the debate is a live one, so we should stick to the facts.

I hope that I can reassure Johann Lamont and anybody else who has concerns—women on the front line and others—that proposed reforms to obtaining gender recognition certificates would not make a material difference to the existing process, because they do not give any additional rights in relation to the decisions that are made on transgender prisoners.

I again reassure Johann Lamont that a decision about where to accommodate a transgender prisoner is made based on the balance of risk and safety for inmates. A decision on a transgender woman wanting to move to a female prison involves consideration of the welfare of the female prisoners in that prison. Consequently, some such moves have been refused by the Scottish Prison Service because they would have caused risk to the physical or psychological wellbeing of female inmates.

This year, the SPS is reviewing the process and protocols that are in place for such situations. I have told the SPS that it should consult MSPs on the matter: Johann Lamont is welcome to contribute to that consultation.

**The Deputy Presiding Officer (Christine Grahame):** I call Kenny Gibson. You will have to be brief, because that was a long answer.

**Kenneth Gibson (Cunninghame North) (SNP):** I have been advised by a recently retired governor that there is at least one female prison in which anatomically male prisoners and female prisoners are expected to shower together. Can the cabinet secretary advise me whether that is the case? If it is, what will be done to remedy the situation?

**Humza Yousaf:** I do not know the answer to that question, although it is the case that transgender women are in the female prison estate. As I said, some requests by transgender women to transfer to female prisons have been refused because of the risk that would be posed to women in them.

Of course, prisons have in place processes to protect women. I would be surprised if the situation is as Kenneth Gibson has suggested, but I will look into his concerns. As things stand, processes exist to ensure that we protect vulnerable women in the prison estate. That will not change, regardless of the gender reforms that the Government chooses to bring forward.

### **Women's Community Integration Unit (Highlands and Islands)**

**2. David Stewart (Highlands and Islands) (Lab):** To ask the Scottish Government what plans it has for a new women's community integration unit in the Highlands and Islands. (S5O-04002)

**The Cabinet Secretary for Justice (Humza Yousaf):** In June 2015, the Scottish Government announced ambitious plans for the future of the female custodial estate. Those plans include a new 80-place national facility to be built at Cornton Vale, and up to five new community-based custodial units, each accommodating around 20 women at locations across Scotland. The Scottish Prison Service is working towards opening the new national facility and the first two CCUs in Glasgow and Dundee by the end of 2021.

The custodial arrangements for women from the Highlands and Islands will remain as they are. Decisions on the next phase of CCUs will be dependent on the risk profile and community locations of the women in custody, as well as on the lessons that are learned in bringing the first phase of CCUs into operation and how that impacts on the design and operation of the remaining CCUs.

**David Stewart:** I thank the cabinet secretary for his answer.

In 2019, 24 women from the Highlands and Islands and Moray were in custody, serving their sentences in HMP Grampian or Cornton Vale. As the cabinet secretary knows, distance from families affects relationships at home and behaviour within the prison environment. Will the cabinet secretary consider a community integration unit for the Highlands and Islands for women who are on short sentences, remand and community integration, or who are nearing the end of their sentences?

**Humza Yousaf:** David Stewart is aware that the reason why a specific facility for women no longer exists in HMP Inverness is low numbers. It is not possible or justifiable to provide a meaningful regime for women there. However, he makes the important point that the other locations of the community custody units have not been decided. I suggest to David Stewart that he make representations to the Scottish Prison Service. If he thinks that there is justification for a community custody unit in the Highlands and Islands, he is free to put that case.

**Liam Kerr (North East Scotland) (Con):** In 2018, it was reported that the Dundee women's unit would open in late 2020. However, Audit Scotland reports suggest that it will not open until 2021 or 2022. Is the cabinet secretary in a position to give further certainty?

**Humza Yousaf:** I will reflect carefully on what Audit Scotland has said. Liam Kerr is aware that there have been challenges in the market, particularly in the construction market. Therefore, we will reflect carefully. When I have an update on timescales, I will make sure that Liam Kerr knows about it.

### **Prisoners (Early Release and Breach of Licence)**

**3. Donald Cameron (Highlands and Islands) (Con):** To ask the Scottish Government how many prisoners were released early in 2018-19, who had previously been released early and recalled to prison for breach of licence. (S5O-04003)

**The Cabinet Secretary for Justice (Humza Yousaf):** The Parole Board for Scotland confirmed that, in 2018-19, of 441 individual prisoners who were considered at an immediate re-release hearing, 29 were recommended for release following recall. That equates to 7 per cent. In addition, of 313 individual prisoners considered at a first or subsequent review following recall, 23 were released. That also equates to around 7 per cent.

**Donald Cameron:** A freedom of information response that the Scottish Conservatives received from the Scottish Prison Service shows that 41 offenders were recalled to prison for breaking the terms of their release, but were then re-released on home detention curfew. In the light of that, and given the clear risk to the public as well as the need to maintain confidence in the system, what steps will the Scottish Government take to understand that issue?

**Humza Yousaf:** There has been a significant amount of thought about and review of the home detention curfew aspect of electronic monitoring. Donald Cameron knows that, because his party rightly raised the issue in the wake of the tragic death of Craig McClelland.

There were two inspectorate reports, and Parliament debated and agreed changes to the home detention curfew. The home detention curfew is more stringent than it ever has been. We have gone from 300 prisoners being released to—this week—30 prisoners being released on home detention curfew. We have to be aware of the error terror, as it has been described, that exists about the regime. Nonetheless, we have a more stringent regime on home detention curfew.

I will continue to reflect on what more we can do to give the public confidence, but people can have absolute confidence that, on the back of two independent inspectorate reviews and because of the changes that we have made to home detention curfew, we have a more robust system in place.

**James Kelly (Glasgow) (Lab):** On home detention curfew, why was there a significant breach of parliamentary rules? When the order was laid, Parliament was given only three days' notice and not 28 days. Parliamentary protocol was therefore treated with absolute contempt.

**The Deputy Presiding Officer:** I was about to call James Kelly again. I do not know why I was going to do that. I call the cabinet secretary.

**Humza Yousaf:** I am not offended in the slightest by that comparison, Presiding Officer.

I really disagree with the premise of the question and how James Kelly asked it. I will, of course, appear in front of the Justice Committee to explain exactly why that was done, but any objective observation of the figures shows that, towards the end of the year, there was a spike in people requiring electronic monitoring. Much of that is, of course, outwith my control. I do not determine who has electronic monitoring: it is decided by a range of operators independent of the Government.

I could have chosen to wait until we came back from the Christmas recess before I laid the order, but that would have created a potential risk. Some people might have been released on electronic monitoring by court order, but there might not have been enough stock, or it might have been that the stock could not have been used because the Scottish statutory instrument had had to wait until after the festive recess. I chose to lay the instrument before the Christmas recess. That is not ducking and diving in respect of parliamentary scrutiny.

I will appear at the Justice Committee next Tuesday. No doubt James Kelly will be at that meeting and will ask me questions on the subject. Not only that, but 40 days of parliamentary scrutiny will still be available, in which Parliament will be able, if it so wishes, to choose to annul the instrument.

I completely reject the premise of James Kelly's question. If I had taken the route that he has suggested, we might well have been unable to use electronic tags, in which case he would have been the first to demand that I come before the Justice Committee to explain how on earth we had got ourselves into that situation.

### **Court Buildings (Crime)**

**4. Peter Chapman (North East Scotland) (Con):** To ask the Scottish Government what action it is taking to reduce crime in and around court buildings. (S5O-04004)

**The Cabinet Secretary for Justice (Humza Yousaf):** Decisions on how to allocate police resources are a matter for the chief constable, but Police Scotland continues to work with partners to ensure that there is appropriate provision to keep the public safe. More than 100 full-time officers are deployed across the Scottish court estate, and in the event of incidents occurring outwith court premises, resources are deployed according to how the call is prioritised. The number of officers who are deployed at court buildings is kept under

review, and where intelligence suggests that there may be potential for unrest, such as during high-profile cases, action will be taken to ensure that appropriate resources are deployed.

The Scottish Courts and Tribunals Service works closely with Police Scotland to assess any risks and take appropriate measures. Police Scotland has recently taken the step of formalising the function of police officers within court buildings and it has signed a formal memorandum of understanding to that effect with the Scottish Courts and Tribunals Service.

**Peter Chapman:** I thank the cabinet secretary for that response, but figures that have been released by the police in response to a freedom of information request show that, in just the previous financial year, police attended nearly 400 incidents at sheriff or justice of the peace courts, including 30 in Aberdeen and seven at Peterhead. Over a quarter of those incidents resulted in a crime being reported.

Presiding Officer, if we cannot keep people safe when they are attending court, how can the public have confidence in the justice system?

**The Deputy Presiding Officer:** I do not think that you are asking me that question. I call the cabinet secretary.

**Humza Yousaf:** People can have confidence because we have one of the lowest crime rates in 40 years. Violent crime has fallen by 46 per cent over the past decade, and they can have confidence in that. They can also have confidence because we have more than 1,000 additional officers on the street compared with the number that we inherited, which is in stark contrast with the position in the rest of the UK.

Police Scotland will, of course, attend incidents that take place where that is appropriate. Last year, 200 items were seized from people who were trying to make their way into city-centre court rooms, but I note that that number was down from 1,000 the year before. The number of knives that were seized at courts went down from 80 to 35 last year. The formalising of the relationship between Police Scotland and the Scottish Courts and Tribunals Service is clearly paying dividends.

### Sexual Offences Guidelines

**5. Claire Baker (Mid Scotland and Fife) (Lab):** To ask the Scottish Government what progress the Scottish Sentencing Council is making with the development of multiple guidelines on sexual offences. (S50-04005)

**The Cabinet Secretary for Justice (Humza Yousaf):** The Scottish Sentencing Council is an independent advisory body. I spoke yesterday with Lady Dorrian, in a very constructive and

productive meeting. She advised me of a range of scoping and preparatory work that had been carried out on the guidelines, including stakeholder engagement, data gathering, court observation and a review of available evidence.

The council commissioned a national survey on public perceptions of sentencing, which was published on 2 September 2019. A sexual offences working group committee has been established, which will lead on the development of the guidelines, including recommendations to the council as to their scope, content and approach.

It is a complex and sensitive area, which requires careful consideration, an evidence-based approach, and appropriate levels of research and consultation. It is vital that the guidelines be fit for purpose.

**Claire Baker:** Sentencing is dependent on the definition of the offence. I thank the cabinet secretary for his recent letter, following my question on violence during consensual sex. In that letter, the cabinet secretary confirms that the police and the court do not provide information on cases involving violence during what began as consensual sexual activity. Will he explore whether there is a way to extract such data, where the defence of consent is used in such cases, and will he consider commissioning research into the level of violence in consensual sex in Scotland?

**Humza Yousaf:** I thank Claire Baker for raising that issue. I reiterate what I said to her previously, and also what I said in the letter, that it is my understanding that “consent” can never be a justification for assault, let alone for murder.

She has asked me to consider a couple of things in terms of the data available, and whether we can extract it. I will speak to stakeholders about that.

She has also asked me to reflect carefully on whether we could commission research, and I promise her that I will take that away: I will speak to my officials and to stakeholders to see whether we can do that. There is already quite a programme of research, as things stand, but nonetheless I will give Claire Baker’s requests careful consideration and let her know the outcome of those considerations.

### Inverness Justice Centre (Access and Communication Provisions)

**6. Gail Ross (Caithness, Sutherland and Ross) (SNP):** To ask the Scottish Government what access and communication provisions will be made in the new justice centre in Inverness for people from remote rural communities. (S50-04006)

**The Cabinet Secretary for Justice (Humza Yousaf):** Although the Inverness justice centre will not replace local courts in the Highlands and Islands, it will allow people from rural communities to access specialist court services for children and vulnerable witnesses, and will enable a wide range of justice and third sector support organisations to enhance their support to rural communities through improved facilities and access to digital technology.

The flexible use of space throughout the centre, and the wide access to digital technology and videolinks, will help those organisations communicate with and support those people in remote rural communities who already use their services, and will hopefully encourage others to access services.

The justice centre will also incorporate a dedicated evidence and hearing suite, supporting the legislative presumption that children in high court cases, and through time all children and adult vulnerable witnesses in all serious criminal cases, will no longer attend a criminal trial.

**Gail Ross:** I welcome that news.

It can be particularly difficult for my constituents who live in remote rural locations to access justice, particularly for those who have additional access needs. Does the cabinet secretary agree with me that technology and innovative thinking must be applied to ensure that the new justice centre fully serves the needs of all those in the north?

**Humza Yousaf:** Yes, I agree with Gail Ross; she has an exemplary record in raising such matters concerning not only her constituents but rural communities more widely. I can give her an absolute reassurance that technology is central to the working of the justice centre. The flexible use of space, and wide access to digital technology and videolinks, really help organisations communicate with and support people in remote and rural areas. The evidence and hearing suite, with its own discrete entrance, which is really important, will provide a specially designed child-friendly hearing room, allowing for a trauma-informed approach when prerecording evidence. If Gail Ross or any other member requires further information in that regard, I would be more than happy to provide more detail in writing.

**Liam McArthur (Orkney Islands) (LD):** We know the importance of family contact, and the particular difficulties faced by people living in the islands. Last year, Families Outside gave the Justice Committee evidence that overcrowding in prisons is making it very difficult to facilitate video visits, but that other models of facilitating that sort of contact have been successfully trialled, elsewhere in the United Kingdom and internationally. Will the cabinet secretary

undertake to discuss with the Scottish Prison Service and the third sector ways in which video visits can be facilitated for not just those from the islands, but other rural areas too?

**The Deputy Presiding Officer:** Cabinet secretary, if you would be brief, it would help us to get the other members in.

**Humza Yousaf:** In short, I agree with Liam McArthur, and I will take those conversations forward with the SPS. I have tremendous respect for Families Outside. I recognise the issue that Liam McArthur raises, and if there is any way in which we can help with family contact, which helps with rehabilitation, I will be more than happy to explore that further.

### Parole (No-body Murder Cases)

**7. Gordon MacDonald (Edinburgh Pentlands) (SNP):** To ask the Scottish Government whether it will consider specific measures for parole in no-body murder cases. (S5O-04007)

**The Cabinet Secretary for Justice (Humza Yousaf):** I recognise how traumatic any murder must be for the families that are involved, but that must be particularly the case when the body has not been disclosed.

In relation to Gordon MacDonald's question, I intend to bring forward changes that will explicitly state that, for the very first time, the Parole Board for Scotland may take into account when determining release the failure of an individual to disclose the location of a victim's body.

**Gordon MacDonald:** I thank the cabinet secretary for his answer and for the discussions and meetings that he has held with me and my constituents about how to address the issue.

Will the cabinet secretary outline what further measures the Scottish Government has in place to ensure that the families of murder victims receive the support and protection that they need?

**Humza Yousaf:** I thank Gordon MacDonald for his campaigning on the issue, along with families from his constituency who have suffered the most severe of losses. In meetings with those families, I have often been struck when those who are involved in cases in which the body has not been located have told me that they are retraumatised day in, day out and that they have no sense of closure.

Therefore, I am pleased that, as I said, the changes will mean that, for the first time, it will be explicitly stated that the Parole Board may take into account the non-disclosure of a body.

On other available support for such families, we have helped to fund a support service for families bereaved by crime, which is led by Victim Support

Scotland. I am more than happy to write to Gordon MacDonald with more details about other support. Of course, families that have already been bereaved by crime can access that service, so I encourage any MSP who has such a family in their constituency or region to make use of that service, if appropriate.

**The Deputy Presiding Officer:** We have to move along quickly. I will take question 8, but it all has to be brief.

### **Police Scotland (Digital, Data and Information and Communications Technology Strategy)**

**8. Alexander Burnett (Aberdeenshire West) (Con):** To ask the Scottish Government what progress is being made with the Police Scotland digital, data and ICT strategy. (S5O-04008)

**The Cabinet Secretary for Justice (Humza Yousaf):** The delivery of police ICT projects is a matter for the Scottish Police Authority and the chief constable. Police Scotland continues to make good progress on a number of ICT projects that are key to delivering on its DDICT strategy and which support the transformation of the service.

The introduction of mobile devices to front-line police officers is one of those projects. It is scheduled for completion by 31 March 2020. The project has received an overwhelmingly positive response, with some officers suggesting that it is the most positive piece of enabling technology in the past decade.

**Alexander Burnett:** Last year, Police Scotland confirmed to the Justice Committee that the Scottish National Party Government had underfunded its digital strategy, with the result that crucial equipment is not being rolled out quickly enough.

With considerable extra funding coming to the Scottish budget, thanks to the Barnett consequential from United Kingdom Government investment, will the SNP now properly fund the strategy and finally move our police into the 21st century?

**Humza Yousaf:** I would love Alexander Burnett to write to me after portfolio question time and tell me the exact details and amounts of consequential that are coming to Scotland. He will forgive me if I have a healthy degree of scepticism about the amounts of money and consequential that are being bandied about by the UK Government.

This financial year, we increased Police Scotland's capital budget by 52 per cent. Of course I hear the calls to examine and explore whether the capital budget should be increased further, and I will give serious consideration to

making that case to the Cabinet Secretary for Finance, Economy and Fair Work. I am sure that when Alexander Burnett's party sits down with the finance secretary in budget negotiations, they will bring the issue along as part of the negotiation.

I note that, as well as what the Scottish Government can provide in finances, it would be very helpful if the UK Government gave back the £125 million that it stole from Police Scotland in VAT.

## Disclosure (Scotland) Bill: Stage 1

**The Deputy Presiding Officer (Christine Grahame):** The next item of business is a debate on motion S5M-20452, in the name of Maree Todd, on the Disclosure (Scotland) Bill at stage 1.

14:54

**The Minister for Children and Young People (Maree Todd):** I am pleased to open the debate on the general principles of the Disclosure (Scotland) Bill. I thank everyone who has contributed to developing the bill so far.

The bill is ambitious and touches on complex and diverse matters. Input from private individuals, employers, advocates, regulators and many others has been absolutely invaluable to understanding what they need and what we can achieve with the bill. We have been listening since its introduction. We have listened to the evidence that was given to the Education and Skills Committee and have engaged with more than 700 individuals, including children and young people, through events held by Disclosure Scotland and Volunteer Scotland. We have worked hard throughout to discover how we can make state disclosure work better for everyone.

I know that the proposals in the bill represent a significant change. To get all the benefits of the changes, we will need to maintain that engagement as we work towards implementation. I believe that the evidence that was given to the committee reflects the level of constructive cross-sector engagement that there has already been with a view to getting the bill right.

I also thank the members of the Education and Skills Committee for their considered approach to stage 1. In particular, I welcome the committee's support for the general principles of the bill. I have taken time to consider its recommendations, and I am just as committed as it has been in providing a constructive response.

In recent years, the Scottish Government has worked to improve the justice, rehabilitation and disclosure systems. The Disclosure (Scotland) Bill is the next step in ensuring that we can continue to support safeguarding Scotland's most vulnerable people while recognising the right of people to move on from their past behaviour. It is in that context that I am considering the committee's recommendations.

The bill introduces new and reformed processes to allow certain information that could be disclosed to be fairly assessed. The current system provides only limited opportunity for people to challenge what is included in their disclosure. The reforms

will ensure that people can interact with the disclosure process and expect it to take account of their circumstances. That does not mean that we will stop disclosing information that is relevant to safeguarding; it simply means that our disclosure system will be better able to take into account the individual circumstances surrounding offending behaviour.

That is particularly important when considering childhood offending. The bill will afford new protections to people who, as children, came into contact with the justice and hearings systems. The provisions allow the full context of childhood behaviour to be considered before a decision is made about whether to disclose such information to a third party.

I welcome the committee's recognition of the particular needs of care-experienced people and our duty to listen carefully to their voices in developing policy. In evidence, we heard from Robert Dorrian, a care-experienced young person who described how a childhood conviction, for which he was admonished, followed him through his education and limited his opportunities as a young adult. That must change. It is vital that people who have experienced adversities in childhood are not further held back as they try to move on as adults.

**Daniel Johnson (Edinburgh Southern) (Lab):** The minister's point about how such incidents can affect future chances is very well made. However, a concern was raised about whether sufficient consideration had been given to whether information on such behaviour might be disclosed as other relevant information, even though it would not be disclosed as a childhood offence. What consideration has been given to that concern?

**Maree Todd:** We have given a great deal of consideration to the committee's concerns about the disclosure of other relevant information, or ORI. I assure Mr Johnson that we are not planning to change the process of disclosure—how we make those decisions. What we are planning to do is to communicate better how those decisions are made.

We also seek to reform the process by which some spent convictions can be removed from a higher-level disclosure. There are many sensitive roles for which it is accepted and proportionate that convictions that would otherwise be forgotten still get disclosed. That allows employers to properly consider past conduct before putting someone into a position of responsibility. The Supreme Court has accepted that it is appropriate for us to set out clear thresholds regarding offence type and severity. Having lists and criteria against which disclosure happens enables a proportionate and foreseeable system that can be delivered within reasonable operational limits.

Currently, removing convictions requires a summary application to the sheriff. We have been told that the process is time consuming, expensive and intimidating for potential applicants. The bill will change that, and the new first step will be to make a simple review request to Disclosure Scotland. If Disclosure Scotland decides that the information should be included, the applicant can opt for independent review. I recognise and accept the committee's position that allowing subsequent reviews of the same information at a later date would enhance proportionality. That means that a state decision to include a conviction could be changed later as time passes or circumstances change. I will therefore lodge a stage 2 amendment to that effect for the committee's consideration.

As I said, I know that concerns have been raised surrounding ORI and the bill. It is important to remember that the provision of ORI is not something new that is being introduced by the Disclosure (Scotland) Bill. Inquiries following the Dunblane massacre in 1996 and the Soham murders in 2002 highlighted that we needed to better manage information about individuals about whom there are valid safeguarding concerns.

**Liz Smith (Mid Scotland and Fife) (Con):** I entirely agree with the minister about the sensitivities over the issue—what she has just said is absolutely right.

One issue that was put to the committee is that sometimes we end up with a situation in which the person who has information disclosed about them is not able to see the full extent of the information that goes to the employer or a reviewer. Does the minister have any concerns about that?

**Maree Todd:** The bill proposes that an individual who requests a disclosure certificate will see the information about them that is to be disclosed before the employer does, and they will have the opportunity to have that information reviewed by the independent reviewer. It is planned that the independent reviewer will give some feedback on the decision, so the person who is applying for the disclosure certificate will be significantly better informed under the new system than they were under the old system.

ORI has a vital role in safeguarding, and continuing with that approach is necessary for public protection. I am confident that Police Scotland and other United Kingdom police forces exercise the utmost rigour before deciding to include ORI. The purpose of the name changes that we are making is to mirror the arrangements that exist in the rest of the UK, which means that people will have the opportunity to dispute ORI's inclusion before a potential employer receives it and will have a right of review by the independent reviewer. Statutory guidance on deciding whether

to include ORI will also be issued to the chief constable. The changes will ensure that the information that may be included is more foreseeable, without diminishing the capability to share relevant information.

The committee has recommended that we include in the bill

“guiding principles ... which should apply to all decision making”.

Although the existing parameters have a very strong basis in the relevant case law, I accept the case for including more detail in the bill to assist with foreseeability and clarity. I am carefully considering the recommendations and how best to include those principles, but it is important that they do not compromise the flexible approach that is necessary in fully considering each individual's circumstances.

I also recognise the concerns around how the Disclosure (Scotland) Bill will interact with the rules on self-disclosure in relation to childhood convictions. There are a number of challenges in ensuring that we get the balance between safeguarding and proportionality right. At stage 2, I will lodge amendments to ensure that no one will have to self-disclose a childhood conviction that would not be disclosed by the state.

The Scottish Government's experience of operating the protection of vulnerable groups scheme since its introduction has highlighted the challenges in identifying eligibility for that scheme. The past eight years have demonstrated that the term “regulated work” is poorly understood and overly complex. The bill seeks to address those concerns. Discussions with stakeholders on the definition of “regulated work” indicated that many felt that it needed to be much clearer. It was also evident that, to ensure a robust PVG system, the definition of “regulated work” needed to go further and to include those who have the ability to exercise power or influence over vulnerable groups.

We have consulted on which day-to-day activities result in power or influence over vulnerable groups. Those activities and the definition of “contact” are set out in schedules 3 and 4 to the bill. Many stakeholders have told us that the new schedules offer more clarity, but I am conscious that clear and accessible guidance will be required to support them fully. We are committed to working with stakeholders, including smaller businesses and voluntary organisations, in developing the guidance.

I have noted the concerns that were raised by Scottish Women's Aid and the committee regarding the proposed change to the definition of “protected adult”. The intention was to move away from the current lengthy and complex definition to

focus on the range of issues that affect a person's wellbeing, capabilities and capacity. However, I recognise that, in doing so, some of the nuance in relation to those who are vulnerable due to their circumstances may have been lost. I thank Scottish Women's Aid for highlighting that issue, and I will lodge a stage 2 amendment to ensure that such people remain within scope.

The bill is founded on extensive and on-going engagement with a broad range of stakeholders. We have listened carefully to diverse voices from across Scotland at each stage of the bill's development, and we look forward to continuing that approach as we progress. If there is one message that I ask members to take into the debate, it is that I am listening and I will consider carefully what more might need to be done. I acknowledge that we may have different views on the best way to make progress on some aspects of this innovative bill, and I welcome the constructive discussion that we have had so far. I commit to working together with stakeholders and with members of the committee and the wider Parliament to ensure that we get the bill right for our communities, for vulnerable groups, for businesses and for charities in Scotland.

I look forward to the debate and to hearing more views from members across the chamber.

I move,

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

**The Deputy Presiding Officer:** I call Clare Adamson to speak on behalf of the Education and Skills Committee.

15:07

**Clare Adamson (Motherwell and Wishaw) (SNP):** As the convener of the Education and Skills Committee, I thank the committee members and the clerking team for their support during the stage 1 deliberations on the Disclosure (Scotland) Bill. The bill has the potential to be transformative for some people who find themselves in the disclosure system.

I was pleased that the minister mentioned Robert Dorrian. It is important that members understand fully the impact that the bill may have on young people such as Robert, so I will quote him. He said:

"I have experience of the disclosure process. I accrued an admonishment when I was 16. I have a very real interest in the bill, because it can effect change. There is a lot of conversation to be had about the intention behind the bill. My journey has been made more difficult than it had to be. Throughout my time, I have lost out on lucrative jobs, been passed over for consideration and have had to have more than one awkward conversation. That could and should have been avoided. Had the recommendations in the bill been enacted years ago, I might be in a different position

from the one that I am in today."—[*Official Report, Education and Skills Committee*, 13 November 2019; c 5.]

Those words highlight that it is vital that the bill is fit for purpose and works for everybody who interacts with the disclosure scheme.

That said, it is a complex and technical bill. As the convener of the committee that was charged with scrutinising it at stage 1, I believe that the evidence that we heard provided us with encouragement about the positive aspects of the bill but highlighted areas where the committee believes that further work is needed to ensure that the bill has optimal impact. I will try to cover those areas in my speech.

Before I do so, I thank all those who gave evidence to the committee, whether as part of our focus groups on the bill, by providing written submissions or by attending the committee to give oral testimony at evidence sessions. As we did in our report on the bill, I acknowledge the Government's extensive engagement before drafting the bill. We heard from a wide range of witnesses, including many smaller voluntary groups and charities that interact regularly with the disclosure scheme. The lived experience of those giving evidence was particularly helpful in illuminating for the committee the potential practical challenges and opportunities in the bill as drafted.

I also thank the bill team from Disclosure Scotland, whose detailed pre-introduction consultation and constructive co-operation with the committee throughout stage 1 was very much appreciated. I welcome the Scottish Government's constructive and detailed response to our stage 1 report, which was received on Tuesday.

I will focus my comments on some of the recommendations in our stage 1 report. I will not have time to pick up on everything in the report, but hopefully I will give colleagues some food for thought ahead of stage 2, when we expect to consider amendments on a range of the bill's provisions.

I mentioned that some people view the bill as complex and technical, and that is certainly the case in relation to its interaction with other pieces of legislation. We were very concerned by some of the discrepancies between the bill as drafted and related acts that have been recently passed by the Parliament, such as the Age of Criminal Responsibility (Scotland) Act 2019 and the Management of Offenders (Scotland) Act 2019.

In our stage 1 report, we asked the Scottish Government to address those discrepancies at stage 2, and I note that the Government committed to doing so in its response. I welcome the Scottish Government's reassurance that the bill was drafted with the principles of the United

Nations Convention on the Rights of the Child in mind, which was another concern raised by the committee.

Another challenge that was addressed by the committee is the two-part test in relation to level 2 disclosures. The two-part test concerns whether the information ought to be included in the disclosure and whether it is relevant for the purpose of disclosure. We heard from a number of witnesses, including the Law Society of Scotland, who felt that further clarity was needed on the operation of those tests, particularly in relation to childhood convictions and the disclosure of other relevant information. Daniel Johnson has already raised that issue this afternoon.

In our report, we welcomed the Scottish Government's commitment to develop guidance in collaboration with stakeholders, but we recommended that the Scottish Government consider the suggestion from the Law Society of Scotland that a set of guiding principles or criteria be included in the bill. I am encouraged by the fact that the Scottish Government has stated in its response to our report that an appropriate stage 2 amendment will be lodged on that issue.

As members can infer from the testimony of Robert Dorrian, the bill seeks to reform how offences that are committed by young people aged between 12 and 17 are disclosed. The policy memorandum to the bill states that one of the policy goals of the bill is

“recognising adolescence as a unique phase of life by ending the automatic disclosure of convictions accrued while aged between 12 and 17 years and introducing an assessment by Disclosure Scotland acting on behalf of Ministers as to whether convictions ought to be disclosed”.

That goal was welcomed by a number of witnesses, but I will focus, in particular, on people such as Robert Dorrian, who are care experienced. Who Cares? Scotland told the committee that,

“although those who have been in care make up an estimated 0.5% of the population, they make up 33% of Scotland's youth offender population and 31% of Scottish adult prison populations”,

which makes them much more likely to be impacted by decisions that are taken about the disclosure scheme.

I have spoken about the potential to provide the context for offences. On that issue, our report stated that more could be done to provide opportunities for any information related to childhood offences that is included in a disclosure to be set in context. That is particularly important for care-experienced people, given their disproportionate level of engagement with the justice system. We hope that that is at the

forefront of everybody's minds as the bill progresses.

The disclosure scheme is also about enabling individuals to take on roles in which they can work with vulnerable groups. One concern that the committee holds is over the current proposal to prevent under-16s from obtaining PVG scheme membership. Sarah Latto of the Scottish Volunteering Forum told us that,

“given that there is also the proposal to make being a PVG scheme member mandatory for doing regulated roles, a lot of organisations would interpret that as meaning that people under the age of 16 would no longer be able to do any voluntary work with vulnerable groups. We think that that would be a real shame and that it would not reflect current circumstances and roles that young volunteers fulfil.”

In our report, we recommend that the Scottish Government conduct a review of the change to measure any negative impact on volunteering rates among young people, as well as developing guidance and supporting organisations to continue to offer volunteering opportunities to those under the age of 16.

Finally, the committee considered the financial memorandum to the bill—in particular, the fee structure for those applying for disclosure products. We recommended the waiving of fees for volunteers obtaining any disclosure product, not just PVG scheme membership. The Scottish Government has committed to a wide-ranging consultation on fees, which I am sure we will all follow with interest.

It would be remiss of me not to mention the recent section 22 report on Disclosure Scotland's information technology system. The committee has exchanged letters with the bill team to obtain assurances that the findings of the report will not affect the bill's financial memorandum.

The committee considered other areas that I am sure will be picked up elsewhere in the debate, such as the use of other relevant information and the change from regulated work to regulated roles. However, as I am rapidly running out of time—

**The Deputy Presiding Officer:** No, no—you can have a bit of extra time if you need it. I saw you looking anxiously at the clock, but we have a little time in hand.

**Clare Adamson:** I will conclude by reiterating that the committee supports the general principles of the bill. However, we believe that there are several areas of the bill that will require further clarification and consideration at stage 2 to ensure that the bill delivers on its aims in full. We look forward to considering amendments at stage 2 to strengthen this vital component of our protection of vulnerable groups.

I repeat my thanks to the many organisations that engaged with the Government's consultation and the committee. Their input has got us to the position of having a robust stage 1 report. I look forward to hearing the rest of this afternoon's debate and, in particular, how we might progress at stage 2.

**The Deputy Presiding Officer:** There is a little time in hand, so I will not be too restrictive on timing—within limits.

15:17

**Liz Smith (Mid Scotland and Fife) (Con):** I put on record the fact that I hold a current PVG certificate.

The Disclosure (Scotland) Bill was introduced in Parliament on 12 June 2019, and it is clear that its general principles are warmly welcomed. I have heard of no concerns among stakeholders that the bill should not be happening. Indeed, it is a very bold move by the Scottish Government to try to improve and work through the complexities of the system, with all the sensitivities that go with it. Generally speaking, it is a good move. That said, the more that we look into the matter, the more complexities appear. I am not yet convinced that we have a way through some of the considerable problems, which I will come to in a minute.

The general approach of simplicity is warmly welcomed. The move away from the four different classifications that we currently have has been warmly welcomed by all the stakeholders, and the Scottish Government is right to try to address that problem. We also warmly welcome the progress towards a more digital system, which, in theory, will be more like the non-paper-based environment that we all live in today.

The minister mentioned that there is a need to recognise adolescence as a particular phase in someone's life. I am sure that we would all agree with that. It is both important and appropriate that common sense can be applied to judgments should someone have fallen foul of the law in the past, whether they went through the justice system or the children's hearings system.

I will address some of the fundamental problems of the bill as it stands, which I see not as party-political issues but as practical discrepancies that have been raised consistently by stakeholders—the Law Society of Scotland, Children in Scotland and Recruit with Conviction, to name but a few—throughout the past several months of evidence.

If we allow the bill to proceed beyond stage 1, as I believe we should, it is the Scottish Conservatives' recommendation that some fundamental changes be made to avoid further complicating an already complicated landscape on

what is often a sensitive issue. The committee's report captures those concerns, and we welcome the general thrust of the comments that Clare Adamson just made.

Although a central theme of the bill is simplicity, the Scottish Government must state clearly how the Disclosure (Scotland) Bill will fit in with other primary legislation and statutory instruments. For example—this has been highlighted several times by various stakeholders—the Management of Offenders (Scotland) Act 2018 directs self-disclosure and the provision for under-18s is based on the date of conviction. The Disclosure (Scotland) Bill, however, contains provisions for state disclosure and includes provisions for a date of offence. Members will see immediately how that might have unintended consequences and cause legislative conflict. It is important that much greater thought is given to the necessary coherence of different pieces of legislation.

**Maree Todd:** Since the Rehabilitation of Offenders Act 1974 was developed, the period of disclosure has always been set from the date of conviction and based on the disposals upon conviction. That is the most straightforward approach to take. In the period between offence and conviction, there is nothing to protect an individual from, because they are not yet carrying the status of a person with a conviction.

We decided to take a different approach, following the model in the Age of Criminal Responsibility (Scotland) Act 2019. Doing that will ensure that we deliver on our commitment to treat childhood offending as being different from adult offending behaviour. So, in the Disclosure (Scotland) Bill, as in the Age of Criminal Responsibility (Scotland) Act 2019, we are using the date of offence.

The presumption that is provided for in section 41 of the bill is there to deal with borderline cases in which the behaviour was committed under the age of 18 but the conviction occurred after the individual had turned 18. I hope that that reassures the member that we have considered that complexity and made the appropriate choices.

**The Deputy Presiding Officer (Linda Fabiani):** That was a long intervention. I can give you extra time, Ms Smith.

**Liz Smith:** That is a welcome clarification, and I fully understand the rationale behind what the minister has just said. It is encouraging that that has been considered. Nonetheless, we know what happens when there is a discrepancy in the language that is used in legislation and in different statutory instruments, and when a different interpretation is put on things. Therefore, it would be helpful if we could have some clarity on that point in the guidance.

The Professional Standards Authority is responsible for the accredited registers programme, which accredits the voluntary registers of practitioners who are not regulated by law, and it has made the same point about the need for coherence, particularly in relation to groups of volunteers that are not governed by a particular professional code of conduct. There are issues there, particularly if we want to encourage more volunteers to come into the process. It is an area that we need to consider at stage 2.

The Government has, quite properly, acknowledged that there are issues about coherence. It is a difficult situation, because the bill falls between portfolios. The Parliament has often been challenged on that, and we know what happens if we pass bad legislation and end up having to undo a lot of good things. It is, therefore, worth spending a lot of time on getting the bill right at stage 2, so that there is consistency.

There is perhaps an issue with the timescale for stage 2, which I understand is just a couple of weeks away. That is quite a short time in which to deal with some of the issues. The minister might like to think about that.

The most difficult issue, however, is legal as opposed to legislative. At the committee's evidence session on 20 November, I asked the Minister for Children and Young People about the nature of the two disclosure tests—the "relevant" and the "ought to be disclosed" tests—because, as yet, I do not think there is enough clarity regarding the criteria that are to be used by decision makers. I know that other members—I think that Daniel Johnson is one of them—share that concern.

In line with what the Law Society of Scotland and the Howard League have advised, it is surely essential that there is clear guidance that is firmly rooted in the law and the foreseeability of outcomes. Members know only too well what happens when that is not the case. As things stand, the decision-making provisions in the bill remain quite complex, and there are a lot of issues with them that we must tie up before we move to stage 2.

How much longer do I have, Presiding Officer?

**The Deputy Presiding Officer:** I can quite happily give you another minute or so.

**Liz Smith:** Thank you. These are important points.

I turn to volunteering, which my colleague Brian Whittle will focus on. The purpose of the bill must be about trust in the system. We must ensure that, when parents take a youngster to scouts, a sports group, a Duke of Edinburgh award group or whatever it might be, there is absolute trust not

just in the integrity and probity of the person who is in charge and will be looking after the group but in the system that backs them up. That is absolutely crucial. We must ensure that we have a lot of volunteers, because communities depend on the strength of volunteers. The argument about what is defined as "regulated work" as opposed to "regulated roles" is therefore very important, and I am thinking about stage 2 amendments that might clarify some of that.

Sometimes in Parliament we are presented with a bill that deals with what looks like, in theory, a very straightforward issue but that, in practice, turns out to be incredibly difficult. I think that this is one of those bills, and I think that the minister thinks that, too. We must be united as a Parliament to overcome all the practical difficulties. The committee has made a good start on that and the minister's comments reflect that, but I do not think that it is going to be an easy bill. It is quite a challenging situation.

15:27

**Iain Gray (East Lothian) (Lab):** I am pleased to join the welcome in the chamber for the bill, following the committee's report. As members from other parties in the chamber will, my Labour colleagues and I will support the general principles of the bill.

It is worth spending a little time on the context of the bill. Last year, we celebrated the 20th anniversary of this Parliament, and there was a fair bit of debate about what has been the biggest, boldest or most controversial legislation that we have passed. Actually, a lot of what we have done has been consensual and has been passed quietly but with great care, and a lot of it has been about protecting people, especially children and vulnerable people—although Liz Smith was right to say that such legislation can be complex, even though it is consensual.

The first non-emergency act that the Scottish Parliament passed did just that. The Adults with Incapacity (Scotland) Act 2000, which I had the privilege of taking through Parliament with the Minister for Justice, Jim Wallace—happy days indeed—took incapacity legislation, some of which was centuries old, and replaced it with what was, at the time, the most modern legislation of the type in Europe. It was exactly designed to protect people who are rendered vulnerable by disability, illness or age.

The 2000 act has been notable for two things. First, it created a system that is unique to Scotland and Scottish needs, and secondly, although it is not often acknowledged in commemorations of our work, it has, in the intervening years, been used

by almost every family in the country. Sometimes the quietest legislation is the most effective.

Disclosure is a bit like that. Over the years, we have taken the legislation that we inherited—the Rehabilitation of Offenders Act 1974 and the Police Act 1997—and built on it through the creation of Disclosure Scotland, the Protection of Vulnerable Groups Acts 2007 and various amendments to ensure compliance with human rights. We have worked, as a Parliament, quietly and without fanfare over time, to ensure that Scotland has the right processes to protect Scotland's people. It is simply the next stage in that that brings us here today. Like the Adults with Incapacity (Scotland) Act 2000, these quiet legislative waters run deep.

The committee heard in evidence from Disclosure Scotland that the PVG scheme now has 1.2 million members. Therefore—this is especially the case for members of the committee—any time that we feel that this is all a bit dry, technical and complex, we need to remind ourselves of how important the system is in protection of vulnerable people in their contact with adults, in both professional and voluntary capacities, through every imaginable aspect of life and society.

As for the consequences of getting that wrong and the system failing, we need only to look across this city to the historical child abuse inquiry to hear exactly what happens when we fail to protect children and other vulnerable groups, and just how much hurt and suffering ensues. Those are not bad things that happened somewhere else—somewhere dangerous. They happened right here in Scotland, and in the very places that were supposed to be places of safety. That is a constant reminder that it is so important that we get the legislation right.

It is no wonder that a bill to modernise child protection laws and to strengthen protections for vulnerable adults has been welcomed—as members have said already—by a broad range of organisations that responded to the consultation and provided evidence to the committee.

As the convener has said, the committee supported the general principles of the bill, but said that

“there are a number of areas within the bill which will require further clarification and consideration”.

The question how the bill will interact with other legislation is crucial—in particular, acts that have recently been passed by the Scottish Parliament, including the Management of Offenders (Scotland) Act 2019 and the Age of Criminal Responsibility (Scotland) Act 2019. We still await answers to that question that will tell us, in detail, how the bill will do that. I think that the minister has, however,

made a welcome commitment to lodge amendments at stage 2.

Labour will seek a commitment from the minister to publish an analysis of interactions with other legislation before the bill is enacted—assuming that it is passed into law. Ministers should also look again at the evidence that was provided to the committee, to ensure that the right balance is struck between protecting vulnerable groups, providing information for appointments to sensitive roles, respecting individuals' rights to privacy, and allowing individuals to move on from offending behaviour. Sometimes the relationships between those things are difficult.

That is why we think—my colleague Daniel Johnson will say more about this—that consideration should be given to there being greater clarity about the principles that are to be applied. Again, I welcome what we heard from the minister earlier about that, although clearly we will have to see the detail on how she intends to try to deliver it.

It is also important that the bill ensures that the proposed changes to the system are user-friendly for organisations and for individuals, but it is clear from the evidence that we received that some work is still to be done. The disclosure system has to be easy to understand—in particular, the relationship between regulated work and regulated roles. As Liz Smith said, that was a clear theme in evidence to the committee.

At stage 2, I would like the committee to examine regulated roles further, so that organisations such as Shared Lives Plus, which supports adult carers, could be given parity with foster carers who care for children.

Next week will see the launch of the care review. Once the bill has been passed—as, I am sure, it will—we urge the Scottish Government to review the impact of the legislation on people who are care experienced. The committee convener spoke about one piece of evidence that we received, but we also heard other evidence about various aspects of the legislation and how they might have particular and disproportionate impacts on care-experienced young people who are building their lives and futures.

All that will be in the detail of the next stage, after 20 years of quietly but effectively improving protection of vulnerable Scots. We are sure that the bill will do that too, so the principle is certainly one that we will support this evening.

15:34

**Ross Greer (West Scotland) (Green):** As a PVG scheme member, I found the stage 1 process interesting. Robust and efficient safeguarding

procedures are essential for protection of vulnerable groups in our society, but those procedures will never be simple. A balance needs to be struck to ensure that vulnerable people are protected, while the rights—in particular, the right to privacy—of people who work with them are also protected to the greatest extent possible.

That is especially true when those are not two separate groups—when a person who is considered to be vulnerable, perhaps by dint of their age, wishes to take on a role that engages with other vulnerable individuals. That has been a consistent theme in the Education and Skills Committee's consideration of the Disclosure (Scotland) Bill, so I will come back to it in a moment.

The interaction of the bill with the wider agenda of restorative justice, in particular in recently passed legislation, is complex, as Liz Smith outlined. It is neither just nor sustainable that everyone who has a past offence be branded for life, but clearly we need a system in which people who present a risk to vulnerable groups are not permitted to work with them.

The aims of the bill are sound and will have the unanimous support of Parliament. As a PVG scheme member, I welcome the bill's intention to strengthen and simplify the system. For example, the proposals to introduce regulated roles should lead to clearer understanding of where PVG membership is required. There has, in the past, been confusion about whether certain roles and work require disclosure, so the examples that are associated with the bill are helpful.

The reduction to two tiers of disclosure should also simplify the system and ensure that only convictions for which there is a genuine need for disclosure must be revealed. That is a sensitive area of law in which it can be difficult to get the balance right and in which case law plays a key role. The bill seeks to incorporate new provisions that are derived from recent case law from both the UK Supreme Court and the Scottish Court of Session.

In scrutinising the bill, the Education and Skills Committee heard evidence from a range of stakeholders, including organisations that work with vulnerable groups and with ex-offenders. Feedback from those organisations was not unanimous in respect of views on some of the proposals—for example, setting a new minimum age of 16 for PVG scheme membership—but their contributions were extremely helpful and showed broad support for the aims and principles of the bill. A broad range of specific concerns were raised; I expect the Government to address them, as appropriate, during stage 2 or through implementation of the legislation, once it has been passed.

A particular concern that I share with those stakeholders, and which I pursued throughout our evidence gathering, is about the proposal to remove under-16s from the PVG scheme. The rationale behind that is that the very small number of under-16s who are barred from working with vulnerable groups should already be known to the system, and that it is therefore disproportionate to monitor continuously a few thousand under-16s as PVG scheme members. I accept that rationale, but in combination with the offence of engaging in restricted work without having gone through a disclosure process, that creates an anomalous and potentially confusing situation in which under-16s could engage in what would otherwise be considered to be restricted work but which, by dint of their age, is not treated as such.

I accept that under-16s should not undertake that kind of work unsupervised and that an adult with PVG membership should be present, but the concern is about unintended consequences—namely, that the participation of under-16s in volunteering will be depressed by a perception that their ineligibility for PVG membership means that they are also ineligible for the volunteering work. Organisations might adopt a policy of requiring all workers and volunteers to be PVG members, as would be implied by the law, without consideration for how that would affect volunteers who are under the age of 16.

There are, of course, other Disclosure Scotland products, but that is where communication is key. We are talking about small voluntary groups, not professionals. In addition, I believe that vulnerability is being created because other imperfect services, including social work and the police, are being relied on to ensure that the small number of under-16s who are a risk and are barred from engaging with vulnerable groups are prevented from doing so.

My specific concern is about a situation in which one such young person moves between local authority areas. In that scenario, communication between the public agencies that most commonly engage with them breaks down, even if just for a short time. I accept that the risk of that happening is small, but there was a thoroughness in the previous system, which encompassed under-16s, that will potentially be lost.

The committee struggled with those issues. We did not conclude that the proposal is inappropriate and needs to be changed, but the concerns that were raised were compelling enough to lead us to recommend that the Government review participation of under-16s in voluntary work, following an initial period of operation of the new disclosure system. I would appreciate a commitment from the minister that such a review—a reasonable request—will take place.

The other area that I have spent the most time on concerns the new powers for Disclosure Scotland. A two-part test is to be introduced that Disclosure Scotland will exercise in situations relating to level 2 disclosures. A number of factors are to be taken into account during a level 2 disclosure to determine whether it would be proportionate. However, the bill lacks a clear framework or guiding principles for decisions, which means that a substantial part of the new system—procedures that directly impact on the balance between safeguarding and privacy and rehabilitation—were not available for scrutiny at stage 1.

I appreciate that the Government has committed to working with stakeholders to develop a framework for decision making, but it is bad practice for Parliament to pass legislation when substantive supporting documents including guidance have not been available for scrutiny alongside the bill. That is necessary sometimes, but I fail to see why it is the case in this situation. Overreliance on secondary legislation or non-statutory guidance means that Parliament simply does not have the same opportunity to ensure that legislation is fit for purpose.

I ask the minister to provide further clarity on the points that are raised in the committee's stage 1 report that I have repeated, and I give the Greens' support for the principles of the Disclosure (Scotland) Bill.

15:41

**Beatrice Wishart (Shetland Islands) (LD):** The process of disclosure rests on the ability to have both consistency and discretion so that the system is able to ensure both fairness and protection. I agree with what was said about a case against the Metropolitan Police Service:

"The proportionality of the disclosure will inevitably require balancing the rights of individuals with the potential risk to members of society ... this balancing act is 'of the greatest public importance'."

Putting that into legislation is obviously a delicate and complex process. The Disclosure (Scotland) Bill is the first piece of legislation that I have had the opportunity to scrutinise since being elected to the Scottish Parliament, and I am glad to begin with such an important bill.

Legislative simplification is clearly necessary. Having patchwork legislation makes life harder for practitioners and for the people who work or live under the system. The disclosure process is useful only if it is effective and it is effective only if it can be understood. I support what Scottish Women's Aid said, which is that simplification is

"welcome but only where this allows the same, or improved, levels of disclosure, coverage and protection for

vulnerable people and does not inadvertently create loopholes capable of exploitation."

Evidence heard by the committee about inconsistencies between this bill and others that have been passed by the Scottish Parliament in the same session was, therefore, concerning. Debbie Nolan, of the Centre for Youth and Criminal Justice, noted in committee that

"if those three pieces of legislation are not fully aligned, we run the risk of the benefits not being realised".—[*Official Report, Education and Skills Committee*, 13 November 2019; c 6.]

If the Government cannot produce consistency across legislation produced in the same year, an expectation of consistent decision making by practitioners will already have been undermined.

I also note the need to create a regime that is able to stand the test of time. Other parts of the reforms were passed last year under the Age of Criminal Responsibility (Scotland) Act 2019. The Government's response to new calls from the international human rights community and to amendments from my party mean that the new age of criminal responsibility already lags behind international expectations. Social Work Scotland said:

"It is critical that Scottish Government and its agencies have a coherent and comprehensive understanding of how all these parts piece together, with systems in place for managing risks, tensions and overlaps."

I would be grateful to hear the minister's understanding of how that would be ensured should this Parliament step up to the plate and raise the age of criminal responsibility in the future.

The relationship between employment and a criminal record is complicated, but the potential for rehabilitation that meaningful work can offer must be recognised. Although a job in itself might not trigger desistance, the stability and responsibility that it creates may actively stop a person tending towards reoffending. Research conducted last year by Beth Weaver of the Scottish Centre for Crime and Justice Research and the University of Strathclyde found that

"barriers to work engendered by attitudes towards people with convictions and disclosure of criminal histories may destabilise efforts to desist and cut off opportunities to sustain desistance, thus ironically undermining public protection."

An overly restrictive disclosure regime is therefore in nobody's interest.

In a similar vein, I would be grateful for reassurance that the safeguards that will be put in place to ensure that the new offence for those who fail to secure PVG scheme membership will not be used as a heavy-handed response to bad administration. A sentence of 12 months in

custody may be appropriate where there is a deliberate intention to circumvent the scheme and to target vulnerable people, but I am not convinced that that is a proportionate response to other circumstances to which it might apply, such as what Community Justice Scotland called “a lapse in paperwork”.

There have already been reports of delays to PVG scheme membership applications at Disclosure Scotland as a result of hiccups with the new information and communications technology system. The Scottish Government has responded in part to concerns, but I would be grateful for further reassurances about IT capacity in light of 1.2 million people perhaps needing to reapply for PVG scheme membership as the renewal system gets under way.

Overall, although I do not think that it is quite ready yet, the bill has the potential to make genuine, positive changes to the disclosure process. I confirm that the Scottish Liberal Democrats support its principles.

**The Deputy Presiding Officer:** That concludes the opening speeches. We move to the open debate. Speeches should be about six minutes, please. I have a little bit of time in hand for interventions.

15:46

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** I am happy to speak in this stage 1 debate. I consider it necessary to introduce the bill at this time. Perhaps the best way to explain why is by quoting the purpose of the bill from the policy memorandum:

“The provisions of this Bill will deliver a range of positive and proportionate reforms to the disclosure regime in Scotland whilst also strengthening the barring service to maintain the Scottish Government’s ability to protect the most vulnerable in society.”

In essence, the bill is being introduced to modernise and improve proportionality in the disclosure system. It aims to balance public protection with the right to move on from past offences. It is split into two parts. Part 1

“creates the legislative framework for the new disclosure products for criminal history and other information”

and part 2

“makes a number of amendments and insertions into the PVG Act.”

As we have heard, the bill is complex. Amendments will be required at stage 2 to achieve the desired purpose of making the disclosure scheme less complex. The current legislation provides for 10 disclosure products, which stakeholders find confusing, and the system is mainly paper based. The bill contains proposals to

allow ministers to offer stakeholders online services that are not possible under the existing legislation, while recognising that online access will not work for everyone and alternatives will be offered.

The number of disclosure products will decrease, reducing confusion, and improved digital services will guide employers and applicants to the right level of disclosure.

Crucially, as we have heard, the bill will give individuals greater control over their disclosure data. They will decide whether disclosure information will be released to a third party, without eroding the vital safeguarding role of disclosure. That is especially important for childhood convictions, when offences were accrued while under the age of 18. Those will no longer be automatically disclosed. They will be eligible for independent review, which, if successful, will allow the young person to move on without being hampered by a childhood offence. That aspect is probably best illustrated by the quote that the convener cited from Robert Dorrian of Who Cares? Scotland, a witness to the committee, who was also mentioned by the minister.

As the convener Clare Adamson, and Liz Smith, Iain Gray and others have said, the committee was concerned about the impact and interaction of the bill with the recently passed Management of Offenders (Scotland) Act 2019 and Age of Criminal Responsibility (Scotland) Act 2019, along with the proposed legislation incorporating the United Nations Convention on the Rights of the Child.

The Government has noted that and the minister addressed the issue in her response to Liz Smith. As I said, the Government will lodge amendments at stage 2 to remedy the matter. I am also pleased with the reassurance that the drafting of the bill took account of the UNCRC.

The committee welcomed the role of the independent reviewer, but was keen that support services would be in place by the time the bill came into force, which the Government has agreed with. The Government has also agreed that draft guidelines for the two-part test must be provided and that training must be part of that and be widely consulted on.

We were also concerned that an unsuccessful review of a list A offence cannot be reviewed for the same purpose twice, which could result in a lifetime of disclosure for the individual.

There was some confusion about how the review processes would work and how individuals could engage with the process. Those issues must be addressed. The Government has committed to considering a set of guiding principles in that

regard, and the minister has outlined the situation in relation to reviews.

As Daniel Johnson and Liz Smith mentioned, the concept of other relevant information was a big issue for the committee to try to understand. There was confusion about who was responsible for that judgment, and what criteria would be used. The committee was concerned that, by allowing employers to access the information despite the conviction itself being withheld, ORI would not allow individuals to move on from past offending behaviour, particularly in the case of childhood offending and care-experienced people. The minister outlined the sensitivity of the situation, and that she plans to clear up the confusion around it. ORI is a key aspect of the disclosure scheme and does not erode the power that can lead to barring under the PVG scheme or discrimination in employment. However, it is understood that Police Scotland and authorities must reflect very seriously when deciding whether to include ORI. Although the committee supports the continuing existence of lists of offences, some anomalies will have to be addressed. For example, “fraud” and “embezzlement” appear in different lists, which was also highlighted in the Law Society of Scotland’s helpful briefing.

Changes to the PVG scheme are an important part of the bill. The committee supports mandatory membership, and the move away from lifetime membership to a renewable five-year membership. That means that those who no longer need the accreditation will not need monitoring, which will reduce the administrative burden.

Iain Gray reminded us of just how important and popular the PVG scheme is. Liz Smith mentioned that there was a bit of uncertainty around regulated work and regulated roles. That has led to confusion about who should—and should not—become a PVG scheme member, which I hope will be addressed. As Ross Greer said, that happens under the existing scheme. With regard to under-16s—whom Ross Greer featured heavily in his speech—we expressed concern that the proposal for non-registration could contribute to a decline in volunteering opportunities, depending on how people and companies interpret the legislation. I take the points that Ross Greer made, and I am sure that the Government will address the issue. It has said that the number of under-16s who apply to join the existing scheme is low, and that there is automatic listing for those with a serious offending background.

The strong message that we got from witnesses is that the PVG scheme is only one of a number of monitoring and screening processes, and that safeguarding will always be the top priority. As such, with important amendments that will be

lodged at stage 2, the Disclosure Scotland Bill is a huge step forward in many areas, and I am happy to support its general principles.

15:52

**Brian Whittle (South Scotland) (Con):** I remind Parliament that I currently hold a PVG certificate, primarily because I am still active in coaching all age groups, and vulnerable groups. I am pleased to have the opportunity to speak in the debate. If I may, I will use my time to focus on the volunteering sector.

I think that we would all agree that every precaution must be put in place to ensure the safety of the young and the vulnerable. As Iain Gray highlighted, there are far too many high-profile cases in which the vulnerable have been let down, and we must do everything that we possibly can to make sure that every protection is in place. We know about the lifelong impact of adverse childhood experiences, which has been well documented in this place. As such, the need for a robust PVG check is apparent.

Having said that, I also highlight the need for the volunteering sector to be accessible to those who are so minded. Volunteering is crucial in so many areas, especially in enabling communities to access activities that tackle issues around isolation, health, education, and social interaction. The Deputy Presiding Officer knows that I have a real passion for that kind of preventative agenda, and such community activities have a central role to play in improving the health and wellbeing of our nation, and reversing a worrying trend in preventable ill health. Moreover, volunteering can have such a positive effect on the lives of the volunteers. As such, we need to ensure that opportunities exist, and are accessible, while ensuring that the highest standards of protection are not compromised.

I want to raise a specific issue that is illustrated by the case of a friend of mine against whom a vexatious allegation was made. It was eventually proved to be unfounded, but the impact on him as a coach and on his charges was profound. I recognise that such situations are very difficult to address, but address them we must. It is not a situation in which the person is innocent until proven guilty: they are removed from the situation immediately an allegation is made. How we should tackle that is an extremely difficult question, but I suggest that, in such situations, the coach could become supervised, potentially by another coach, to ensure that there is still protection.

When I renewed my PVG certificate recently, the process was not exactly simple or seamless. It required me and the club to fill in the forms and submit them to the governing body, and then we

had to fill them in and submit them again when something went awry in the process. I then had to wait six weeks for clearance. It is a cumbersome process. I welcome the move to a digital system, which Liz Smith mentioned, as it should allow for a much more user-friendly experience. When a PVG certificate is renewed, all that is really being asked is whether anything has changed since the previous issue. A digital communication and collaboration platform should be able to access that data routinely. Such a system should also be much more effective in the on-going monitoring of those who already hold a PVG certificate, and it should be swifter in raising potential breaches. I look forward to the implementation of that system.

I also highlight that, at one time, I held three separate disclosure certificates for different organisations in order to work with the same sorts of vulnerable groups. There is surely no need for such duplication. Perhaps the bill will allow us to tidy up that situation.

The caveat that I want to highlight is that PVG checking should be seen not as an intrusive experience but as an enabler. It should be welcomed by all those who participate and it should keep parents satisfied that their children are being effectively supervised. On that point, members will know about the continuing petition on the subject, which the Public Petitions Committee is considering, as well as the Health and Sport Committee's investigation of child welfare in sport. Those committees have certainly highlighted the issues, and it would seem that they are now being addressed. I hope that the outcomes of those investigations and actions will be positive. It is imperative that sports' governing bodies implement the highest duty of care for their members. The work that those committees have done and continue to do demonstrates that there has been considerable variation in implementation of duties of care across governing bodies, so I would be interested to hear from the minister how the Scottish Government will ensure that there is full compliance with the legislation and how that will be monitored.

I was also interested in the points that Liz Smith made about PVG provision for former young offenders who have demonstrated a period of good behaviour. They brought to mind a scheme in Kilmarnock prison where inmates were offered the chance to take their football and rugby coaching exams. I took a parliamentary football and rugby team there to play the inmates and prison guards at football and rugby, which we all survived. It was a great opportunity to highlight that those people are still members of society and that, having served their due sentences for the crimes that they committed, they will be expected to reintegrate into society. It is clear to me that a coaching certificate allows such people the

possibility of making a positive contribution to their community and their subsequent acceptance back into that community.

Of course, without the requisite disclosure certificate, they will not be allowed to deliver that coaching. I can definitely see the issues here. I am a parent who has all the same concerns that any other parent has, be they perceived or otherwise. However, if we are to create opportunities for those who have previously fallen foul of the law, we need to consider how the skills that they have learned during their sentences can be used in the community. Perhaps that will involve them working in partnership with other coaches and starting with the least vulnerable groups. Again, I would be interested to hear the minister's thoughts on that.

Outside sport, I am working with a constituent in relation to allegations of historical childhood rape in schools. It is an extremely sensitive subject. It is part of a petition at the moment, and it has now gone to court. I would never comment on a particular court case, but the teacher in question at that time was just moved to another area and the PVG check did not follow him. Again, the bill perhaps gives us an opportunity to close what is, I think, a fairly major loophole in the law.

As has been outlined, the Disclosure (Scotland) Bill attempts to simplify the complex disclosure system in Scotland. That is very welcome. The reservation that has been expressed today, which I share, is that it does so in a complex manner. Evidence from the Law Society of Scotland, Children in Scotland, and Recruit with Conviction, concurs with that concern. I will not repeat that evidence, as it has already been highlighted.

Conservative members will support the bill at stage 1 but, in doing so, we recognise that there is a fairly hefty amount of work required to make it fit for purpose at subsequent stages. I urge the Scottish Government not to lose sight of the objective, which must be to ensure that the application process for a PVG certificate is user-friendly and does not deter those who wish to volunteer, all the while maintaining protection for those in our society who are most at risk. I am more than willing to work with the Government on that, should it see fit.

16:00

**Alex Neil (Airdrie and Shotts) (SNP):** I welcome the bill. Over the past 20 years or so, the Parliament has passed very few bills that will impact on as many people in Scotland as the Disclosure (Scotland) Bill will.

As Iain Gray pointed out, there are 1.2 million people registered with Disclosure Scotland. As Brian Whittle has just shown, registration can be a good experience, or not such a good experience;

nonetheless, it impacts on people's ability to serve their community in the way that they wish.

However it is not just about the 1.2 million people who are registered with Disclosure Scotland. We should think about all the people that those 1.2 million are actually responsible for. By the time we add up the number of children that teachers are responsible for; the number of people that registered social workers, social care workers and health workers are responsible for; the number of people that all the sports organisations in Scotland and third sector organisations are responsible for, we see that it is not 20 per cent of the Scottish population; it is probably nearer to double that figure. In other words, probably between 35 and 40 per cent of the Scottish population will be impacted by the bill. The bill is a major piece of work, and it is extremely important that we get it right.

There are two issues that I would like to raise with the minister. The first was mentioned by Liz Smith and concerns the Parliamentary Bureau and the Education and Skills Committee. It would not be the first time that when the Parliament passed primary legislation too quickly, we had to introduce corrective primary legislation because we did not do a thorough enough job the first time around. With such an important and complex bill, let us take our time to make sure that we get it right.

I understand from the convener of the committee that the timetable is not quite as tight as Liz Smith said. However, I say to the committee and to the Parliamentary Bureau that if it takes a bit longer to get it right, let us take that time. Otherwise, we could adversely impact the lives, not only of those who are registered, but of members of vulnerable groups in our society.

I make my other point as a member of the Public Audit and Post-legislative Scrutiny Committee, which has dealt with umpteen issues of IT systems in the public sector that have gone wrong. If we add up the number of those IT systems, and the total cost of not getting it right, over the past 20 years, we see that the cost runs well into hundreds of millions of pounds. More important, not getting things right can destroy the improvement that is intended in service delivery, because of the time that it takes to correct the systems that have gone wrong or have not been properly planned. I say therefore to the minister and Disclosure Scotland to do whatever they can, and everything that they can, to ensure that they get the IT system right.

Brian Whittle is absolutely right: we want to make sure that people do not need to wait six weeks for the process to be completed. People do not want to have to resubmit their application because the IT system is faulty. If we are really to make big improvements, by planning them, and by

making sure at the project management stage that we get it right, we will save a lot of heartache, agony, and money, at a later stage. That is extremely important.

It would be a great tragedy if we were to pass this excellent bill, which still requires amendment and further consideration, as I said, and it were then to fall foul of those practical issues, which would undermine its purpose, scope and intention accordingly. It is better to take our time and get it right.

There are a number of specific issues that I want to raise. I will repeat many things that have already been said, including what Rona said about simplification, which is extremely welcome.

For those people who got into a bit of trouble in their teens and perhaps ended up getting a criminal record, but who are not bad people and have moved on in life, I particularly like the fact that they will not have to go through the rest of their lives being penalised. They will not have to miss opportunities to help others or have their potential or actual careers ruined because Disclosure Scotland is legally obliged to cast up information about something that happened many years ago, possibly in extenuating circumstances, and which did not involve a serious criminal offence. I am delighted that we can make life not as miserable for those people who have moved on and want to help others, rectify their mistakes and serve the community. They should be allowed to do so, so those progressive elements of the bill are very welcome.

The minister and the committee must listen to representations that are made to them by outside bodies, as Rona said. I do not always agree with the Law Society of Scotland, but in its submission, it requested further amendment to protect human rights and asked that we deal with the list of offences, as there are issues with it that clearly need to be sorted at stage 2. We have to take those comments seriously.

However, we also have to look at potential impacts on other aspects of the bill as amendments are considered. The bill must be seen in its totality. When considering amendments, we cannot look only at the sections that would be amended. With a bill of this complexity, we need to take a comprehensive view and consider the impact on and potential unintended consequences for other provisions of the bill.

The points that were made by the Law Society and a number of other organisations that made submissions are important.

I congratulate the Government on the bill and I congratulate the committee on its excellent work. There is a bit more work to be done, but by the

time that we get to stage 3, I hope that we will have a bill of which we can all be proud.

**The Deputy Presiding Officer:** I remind members to always use colleagues' full names when they refer to them in their speeches. I know that we are all pals, but it is useful for the official report and broadcasting staff.

16:08

**Mary Fee (West Scotland) (Lab):** I thank the Education and Skills Committee for its work throughout stage 1, which has provided us with an informative stage 1 report. I also express my gratitude to all the individuals and organisations who provided such valuable input to the committee's inquiry and, prior to that, to the Scottish Government's consultation on its proposed changes to the disclosure scheme.

As my colleague Iain Gray said in his opening speech, we welcome the ambitions for the bill and will vote in favour of it at decision time.

The stage 1 report offers a wide range of recommendations to strengthen the bill, and I note from the Scottish Government's response to the report that it will lodge amendments at stage 2 to strengthen the bill further. Those recommendations and the Government's commitment to act on some of them are welcome in ensuring that the bill continues to meet the ambitions behind its introduction.

Simplifying the disclosure regime is necessary to reduce the complexities that many people face when navigating the system, as they must if they want to perform paid or voluntary work with children or people with complex needs, who are often vulnerable.

The reduction in the number of disclosure levels from four to two and in the number of products that are offered from 10 to four received significant support from respondents to the consultation, thus strengthening the arguments for simplifying the scheme. As Community Justice Scotland rightly pointed out in its submission:

"Simplification of this landscape is critical to ensure that people with convictions are afforded opportunities to move on with their lives."

On many occasions in the chamber, I have argued for better rehabilitation for prisoners, and I believe that such simplification could support their rehabilitation into society and allow people whose offending behaviour lies in the past to live constructive and rewarding lives and put past events and behaviour behind them. Protecting the most vulnerable people in our society is a fundamental duty of any Government, and I believe that the bill continues to meet that duty

while making it simpler for people to engage with the disclosure scheme.

I welcome the provision to introduce digital applications, which will make it easier for the applicant and reduce the administration for Disclosure Scotland and for employers who submit applications, but it is right that a non-digital system will remain in place for people who do not have access to a computer or the necessary skills to apply online. I also welcome the point raised by the criminal justice voluntary sector forum that people in the justice system are more likely to have speech, language and communication needs, lower educational attainment and higher rates of learning difficulties. It is very important that, regardless of need, people have the right support and access to information on disclosure.

Although I am supportive of the principles behind the bill, I have one area of concern, which surrounds the use of other relevant information. Assurances have been provided that a Scottish quality assurance framework will be developed in relation to Police Scotland sharing other relevant information, but I remain concerned about the sharing of information on behaviour that an applicant might have displayed during their childhood.

Alistair Hogg of the Scottish Children's Reporter Administration said:

"The concept of 'other relevant information' is understandable, but disclosure of it, particularly in relation to behaviour that has happened during childhood or adolescence, needs a very high threshold."—[*Official Report, Education and Skills Committee*, 13 November 2019; c 11-12.]

I fully agree with Mr Hogg's point. That is where my reservations lie with regard to the sharing of other relevant information, especially for people who have come through the hearings system.

The Education and Skills Committee pointed out that

"the potential for disclosure of other relevant information held by the police undermines one policy objective of the Bill, which is to allow individuals to move on from past offending behaviours."

I read carefully the minister's response on the concerns that have been raised about the use of other relevant information, and I take on board the points that she made. However, I will observe with interest how the issue develops at stages 2 and 3.

I also support the ending of lifetime membership of the PVG scheme. There was widespread support for that part of the bill, because it will reduce some of the administration and monitoring of people who will no longer be required to be in the scheme. In evidence, the Church of Scotland raised concerns about how the transition from lifetime membership to five-year renewable

membership would be managed. As the bill progresses, I look to the Government to set out clearly how that transition will be managed.

My only reservation in that regard is about the penalising of those who fall foul of the new term limits. I would not want anyone to be criminalised for failing to reapply, and I do not want people on low incomes who have to pay to reapply every five years to be financially burdened. I note that the current cost of an application is around £60. Therefore, I ask the minister to proceed with caution when she sets the fees in the future and to think of those low-paid workers and volunteers who pay for their membership themselves. The scheme cannot be a tax on people who perform valuable caring and support roles, or a barrier to them continuing in those roles.

16:14

**Jenny Gilruth (Mid Fife and Glenrothes) (SNP):** I thank the Education and Skills Committee clerks, the bill team and all the witnesses who provided evidence ahead of the publication of our stage 1 report.

As we have heard today, the Disclosure (Scotland) Bill's focus is on reforming how individuals' past behaviour is recorded by the state. Furthermore, it makes provision for a number of changes to the PVG scheme, of which, as Iain Gray advised, there are more than 1 million members in Scotland.

As Rona Mackay outlined, the policy memorandum notes:

"The provisions of this Bill will deliver a range of positive and proportionate reforms to the disclosure regime in Scotland whilst also strengthening the barring service to maintain the Scottish Government's ability to protect the most vulnerable in society."

Part 1 of the bill considers the disclosure of unspent criminal convictions and other relevant information. Part 2 makes amendments to the Protection of Vulnerable Groups (Scotland) Act 2007. Other relevant information is information that currently can only be disclosed in an enhanced disclosure or a full PVG scheme record check. For example, it might include allegations that are held on local police records regarding an applicant's behaviour, as Mary Fee outlined.

The bill proposes to reform the provision of ORI by ending the current process of disclosures being issued to employers before the applicant has had an opportunity to challenge the disclosure of any ORI. Furthermore, the bill will end the automatic disclosure of convictions that were accrued between the ages of 12 and 17. As Liz Smith pointed out, one of the key policy objectives of the bill is the acknowledgement of

"adolescence as a unique phase of life".

As the centre for excellence for looked after children in Scotland noted in its submission:

"The disclosure of childhood information disproportionately affects young people and adults with care experience, who are more likely to have had contact with the police, and to have been involved in formal processes which lead to recording of behaviour."

The Howard League Scotland agreed, saying:

"people who are looked after or care experienced often have arrested development and less opportunity to move on in life compared to somebody who is perhaps engaged in an isolated offence at the age of 13."—[*Official Report, Education and Skills Committee*, 6 November 2019; c 26.]

The committee highlighted our concerns about the potential for disclosure of ORI to prevent individuals from moving on due to past offending behaviour. The issue was felt to be of particular concern with regard to childhood offending and for those who are care experienced. I was therefore glad to hear the minister refer to that specific point in her opening speech.

The Government's response notes Police Scotland's evidence to the committee, in which it asserted that all information is rigorously considered before any disclosure of ORI is made. The response also highlights provisions in the bill that give an applicant the opportunity to submit representations prior to the release of ORI.

Part 2 makes amendments to the 2007 act, and section 76 amends the meaning of "protected adult". In its written submission to the committee, Scottish Women's Aid raised some concerns, highlighting that the proposal to redefine "protected adult" will list vulnerability through "disability or illness". In its submission, Scottish Women's Aid stated that

"focussing ... on disability or illness created a loophole, as this definition would not automatically cover women experiencing domestic abuse".

It goes on to state that the change to the definition that is provided for in section 76 is too limited and could create

"a specific issue for ... women experiencing domestic abuse who are accessing refuge accommodation".

Scottish Women's Aid has requested that section 76 be amended to include

"the full spectrum of services within which regulated roles in respect of 'protected adults' would exist."

I raised that point with the minister in our evidence session and I know that Government officials have met Scottish Women's Aid to discuss the organisation's concerns, so I was absolutely delighted to hear the minister confirm that she will lodge amendments on the matter at stage 2.

One of the key aims of the bill is to simplify and modernise the disclosure system for users and organisations. The committee heard evidence that,

for some people, the application process can provide further barriers to entering the labour market. As Robert Dorrian from Who Cares? Scotland explained in evidence,

“the stereotypical person engaging in the disclosure process may have had one or two moves, but what about the person who has had 14 or 16? The onus is on them to know about those changes, to know where they were at what time and to know about the support mechanism that is in place.”—[*Official Report, Education and Skills Committee*, 13 November 2019; c 21.]

Robert Dorrian was keen to point to the obligations that Disclosure Scotland has towards those with a care-experienced background, and to the role of corporate parents in ending what he described as “secondary discriminatory practices” against care-experienced people. I note from the Government’s response that Disclosure Scotland is going to mount a major communications exercise in advance of any of the reforms that we are discussing today. I hope that the campaign will look to effectively consider the needs of care-experienced young people in particular, who might be reluctant to engage in the disclosure process through no fault of their own.

The committee was also cognisant that non-digital means of applying to the disclosure process should be maintained. As such, we welcomed the confirmation in the policy memorandum that, although a move to digital services will happen as part of the reforms, they will not fully replace non-digital ways of applying.

Today’s stage 1 debate is the start of a process of simplifying and modernising the disclosure system, with a focus on balancing public protection with the right to move on from past offences. As the committee heard, that is particularly pertinent to young people and those who are care experienced, who in the past may have ended up labelled for life.

I again thank those who provided the committee with evidence. I look forward to the next stage of our deliberations, in which we will focus on delivering a fairer disclosure system for the most vulnerable.

16:20

**Maurice Corry (West Scotland) (Con):** I welcome this first stage of the Disclosure (Scotland) Bill, and I thank the members of the Education and Skills Committee and the clerks for their efforts in producing the committee’s stage 1 report. I should declare that I am the holder of a PVG certificate and that I have a daughter who works at Disclosure Scotland.

The disclosure system in Scotland is undoubtedly complex and presents many areas that call for caution, clarification and improvement.

The bill seeks to address those issues, and so, in principle, I support it at this stage.

The system that is delivered by Disclosure Scotland is designed to offer a layer of protection to vulnerable groups in society, which include children and protected adults. The system ensures that the recruitment process allows only suitable individuals to work with people in those groups; however, the bill needs to take a balanced approach. In seeking to protect vulnerable groups in our communities, it must also respect every individual’s right to privacy and recognise the right point at which rehabilitated individuals are entitled to move on from a past offence.

I appreciate the bill’s aim of simplifying the disclosure system. I hope that, by making it more user friendly, we will remove long-standing complexities in the system, making it easier to navigate. By streamlining the current four disclosure products of basic, standard, enhanced and PVG to two levels, which will cover basic disclosure and more serious offences, the bill will offer users and organisations much-needed simplified options.

Connected with that is the digitisation of the disclosure system, which is most welcome, as it will allow users to make applications and view their disclosures online. That will make the process quicker overall. However, I agree that a paper-based system should continue alongside that service, as we should be mindful of those who may not be computer literate and those who are based in areas without reliable internet connections. As my party’s spokesperson on veterans’ affairs, I am keen to highlight the submission of Royal Blind and Scottish War Blinded, which welcomed the idea of PVG membership cards as a sound alternative option to the digital process and sought greater clarification on how that might be implemented.

I know that I am not alone in having concerns about legislative overlap and discrepancy regarding the way in which the updated disclosure process will work in practice. The Centre for Youth and Criminal Justice, Social Work Scotland and Community Justice Scotland were just some of the organisations that highlighted that issue to the committee.

When the bill is linked with the Management of Offenders (Scotland) Act 2019 and the Age of Criminal Responsibility (Scotland) Act 2019, we are presented with inconsistencies regarding how childhood convictions should be treated and whether that is under a self-disclosure or a state disclosure regime. As has been mentioned, there is further confusion as to whether it is the date of the offence or the date of conviction that will be taken into account under the bill. I recognise that, as the minister has confirmed today, those

discrepancies are being actively considered, but I hope that a logical solution will be found before stage 2. I fully agree with the valid points that Alex Neil made in that regard.

The move from lifetime membership of the PVG scheme to a renewable five-year membership will reduce the number of individuals who are monitored when that is no longer required and so ensure people's right to privacy. At the same time, it will keep the system up to date and more manageable. As has been mentioned, the PVG scheme currently has more than 1.2 million members, and not all of those individuals are still carrying out regulated work. However, the evidence to the committee spoke of a need for clarity surrounding the transition period before the proposal is implemented. Such a period is needed to allow organisations to adhere to the change in a more feasible timeframe and with greater understanding.

Moreover, I join others in suggesting that, in relation to situations in which an individual has, by mistake, failed to renew their membership, further consideration should be given to moving away from penalties or short sentences, which are inconsistent with the sentiment behind the bill and the current legislation.

As has been mentioned, further clarity and guidance are needed before stage 2 on the change in concept from "regulated work" to "regulated roles" under the revised PVG scheme. That change, which will describe the work that is being undertaken, will offer greater accuracy. Despite that, many smaller businesses and organisations are uncertain about what may or may not be included under that description.

In the same thread, there may be scope to expand how the bill defines vulnerable groups. For instance, its definition of a protected adult arguably centres on protecting those with health-related needs, inadvertently missing out other vulnerabilities that may need protection, such as old age and homelessness. That is worth exploring, and I look forward to seeing whether it will be improved after further consideration by the minister and the committee.

It is clear that some areas of the bill need further detail to make it a workable improvement on the complicated system that we currently have. Although I support its key principles, further consideration is needed to address those issues, particularly as it is such an important piece of legislation.

16:25

**Gail Ross (Caithness, Sutherland and Ross) (SNP):** I add my thanks to the clerks, my fellow committee members and everyone who has given

evidence to the Education and Skills Committee, both in writing and in person. It has been thorough and, at times, complicated, such is the depth and importance of the legislation that we are dealing with.

The bill will help to protect some of the most vulnerable people and groups in our communities and, as Alex Neil pointed out, it is imperative that we get it right the first time. The bill was introduced in the Scottish Parliament by the cabinet secretary last June, and it aims to simplify what is, as we have seen, an overcomplicated system of disclosure.

During scrutiny of the Protection of Vulnerable Groups (Scotland) Act 2007, the Government said that it would review the PVG scheme. As the scheme has been in place since 2011 and the Parliament has recently passed other, related pieces of legislation such as the Management of Offenders (Scotland) Act 2019 and the Age of Criminal Responsibility (Scotland) Act 2019, the decision was made to review and update the whole disclosure scheme.

As we have heard—this is what happens when you go last: everybody has said everything before you—various changes are being made, one of which is reform of the current suite of disclosure products. Currently, there are four types of disclosure checks: basic, standard, enhanced and PVG. The proposal is to replace those with level 1 disclosure, which would be the equivalent of basic, and level 2 disclosure, which would replace everything else. Responses to the Government's consultation show that there is significant support for that reduction. Other feedback said that the complexity of the system lies not only in the suite of products that are available but in a lack of understanding of the underpinning legislation and difficulty in navigating the system.

The bill also makes changes to enable people to apply for and receive disclosures digitally. It is hoped that that, too, will simplify the system, but it is worth noting that there will still be a paper-based system for those who require it. That is in line with responses to the consultation that expressed support for the move to digital with the provision of a non-digital alternative. The committee also recommended full engagement with organisations that cannot access a digital platform. I am sure that the Public Audit and Post-legislative Scrutiny Committee will give that IT system proportionate and thorough scrutiny when the time comes.

One of the other major changes will be the ending of lifetime membership of the scheme and its replacement with a five-year renewable membership. Disclosure Scotland told the Education and Skills Committee that as many as 20 per cent of the 1.2 million people who are currently on the scheme no longer do regulated

work. It considers it important that the scheme membership accurately represents the number of people in Scotland who undertake regulated roles. However, the committee was concerned about the proposed penalty of a short custodial sentence for those who fail to renew their membership, and it recommends that the Scottish Government look again at whether that is proportionate. I also agree with my colleague Mary Fee, who asked about people on low incomes. I am interested to hear from the minister whether there will be any help with funding for those individuals.

As I said, the bill does not stand alone. Like most of my colleagues, I love a package deal when it comes to legislation. It is our duty as legislators to ensure that the laws that we make fit together seamlessly, and a number of witnesses noted what they see as discrepancies between the bill and the Management of Offenders (Scotland) Act 2019 and the Age of Criminal Responsibility (Scotland) Act 2019. Organisations such as the Centre for Youth and Criminal Justice, Social Work Scotland and Community Justice Scotland all expressed concern. Their concerns included state disclosure and self-disclosure, the date of the offence versus the date of the conviction and how the new acts will align with the new disclosure system. The Scottish Government has confirmed that it will lodge amendments at stage 2 to deal with any discrepancies. I also welcome the explanation that the minister gave to Liz Smith, which was extremely helpful in addressing such concerns. The committee recommended that any future legislation, such as the legislation incorporating the UNCRC, should work well together with the bill, and I was glad to see that the minister, in the Government's written response, confirmed that that will be the case.

There was also broad support for the moves to reform how offences that are committed by young people between the ages of 12 and 17 are disclosed and to bring about the end of automatic disclosure. I will share a quote from Community Justice Scotland. It said:

"This, at a stroke would reduce the likelihood that people will experience discrimination based on events that happened when they were a child, which have no reflection on their current or future potential to work or study as fully rehabilitated adults".

I have no doubt that, like any legislation that comes before us at stage 1, the bill will be amended at stage 2. However, the underlying aim of simplifying the disclosure scheme is entirely sensible—or, to use Ross Greer's word, "sound". The committee supports the general principles of the bill, and I urge other members to do the same.

**The Presiding Officer (Ken Macintosh):** We move to closing speeches.

16:31

**Daniel Johnson (Edinburgh Southern) (Lab):**

I would like to begin as other members have, by thanking the clerks. We have had a thorough debate. Our stage 1 evidence was also thorough, and that is possible only because of the hard work and diligence of our clerks.

I also thank my fellow committee members. As Gail Ross has just outlined, we have done our jobs thoroughly, both in public and private discussion. That reflects—as does today's debate—that sense of shared responsibility to get it right. We have no greater collective duty than to protect the welfare and wellbeing of our children and vulnerable people. There is also our responsibility in terms of the raw numbers: as Iain Gray pointed out, one in five people is in the PVG scheme. For those reasons, the bill is important.

It says a great deal that there was so much overlap between the opening speakers in the debate. We all share the minister's sentiment that we should make this bold reform. In doing so, there are several things that we must do. First, we must balance the responsibility for protection with the right of the individual to move on from any past crimes or issues that they have had in their lives. Reform must be based on those principles and must provide simplification and predictability of the system.

Another issue, which was touched on by several speakers, and Ross Greer in particular, is about the perception of how the system will operate technically. That is why the two-stage test is so important. It is with a degree of trepidation that I am going to talk about this. I do not think that I have ever spoken in a debate in which so many people have predicted what I will say. The topic is an issue of concern for me. In itself, the two-stage test is sensible. Indeed, there is case law that establishes what it is and how it should operate at a high level. However, if we are seeking predictability, clarity is important.

Clan Childlaw was very clear that it would find it difficult to provide advice to people who have information disclosed under the bill on the basis of the two-stage test. If legal bodies and organisations such as Clan Childlaw cannot provide that, then the understandability of the law and how it will be operated is in question.

I would like to provide a counter-factual. Before I do that, I will make a small apology to the minister. When she was giving evidence, I set her the rather unfair test of being able to explain what the difference might be between "relevant" and "ought". The key test is to be able to explain a situation in which information would be relevant but ought not to be disclosed—where the

information would pass one hurdle but not the other.

Here is the issue. Relevance is easy to understand. It is about a situation or information that directly relates to the job that is being undertaken by the individual. The “ought” test is more complicated. “Ought” always relies on another underlying value in order to test it. I apologise if I sound like a philosophy graduate, but I am one, and I think that this is incredibly important. It should be informed by factors in the case law such as the time and context of the incident in question. The issue is that, if we are talking about proportionality or risk, one person’s proportionality is not the same as another’s. That is why we have to elaborate further.

I accept that the minister is saying that much of that will be laid out in guidance but, because those tests are so pivotal, it is very difficult to scrutinise the legislation without seeing that guidance if those values are not further explained in the bill. That is why I welcome the minister’s willingness to look at amendments at stage 2 to provide those tests. I urge her to examine the suggestion by the Law Society that we provide high-level principles, albeit amendable through secondary legislation and backed up by statutory guidance. That way we can scrutinise and understand how this law will operate. Importantly, the people who are potentially subject to it will also be able to understand it.

I will mention some issues that have been raised by members. The issue of other relevant information, which was mentioned by Mary Fee, Rona Mackay and others, is critically important. The glib analysis is that the conditions in the bill for disclosure of convictions are lengthy but section 18, on other relevant information, is very short. However, the reality is that, because of the volume of information that could be disclosed, the volume of other relevant information may be greater than the volume of conviction information. Counterintuitively, the other relevant information might also provide the very insight into those convictions that would not be disclosed because of the age of the individual but which might be disclosed as other relevant information. We need to examine that further and make sure that there are no such contradictions or loopholes.

Ross Greer’s examination of under-16s and the impact of volunteering highlights the point that I made at the beginning. It is important to understand the difference between how the provisions operate technically and how they are perceived. That is at the heart of that issue. We do not want to put off under-16s from volunteering, both because of the contribution that they can make and because of how valuable volunteering is for them.

I will touch on the issues with other legislation. It has been interesting for me, as a committee member, to examine this bill after spending some time on the Justice Committee during the passage of the Management of Offenders (Scotland) Bill. A number of members have identified an interaction between the two bills. It is also interesting to see how this bill fits with other legislation and how the Government plans for legislation. There are overlaps. I appreciate that the minister has said that she will bring forward guidance, but that is critical, because it comes down to confusion. Many people have made the point that, when you have confusion, you get overdisclosure, and that can exacerbate the stigma that is faced by individuals.

I urge the Government to think carefully about interactions when it plans legislation. We have three bills that have passed through this place in quick succession, yet we are questioning how those interactions will work and whether there are unintended consequences from different acts that have been passed within months of each other.

I will end by reflecting on the points that Alex Neil made. Let us take our time. If we need to take further evidence at stage 2 and contemplate those interactions and whether we have had adequate information from the Government, let us do that. Let us get this right. As so many people have pointed out, the bill will impact on the welfare and wellbeing of our children and so many people in Scotland who undertake invaluable volunteering work.

16:40

**Alison Harris (Central Scotland) (Con):** I declare that I, too, hold a PVG certificate.

I am pleased to be closing for the Scottish Conservatives in this stage 1 debate. As my colleague Liz Smith said in her opening speech, we support the principles of the Disclosure (Scotland) Bill. We all agree that protecting the most vulnerable people in our society is crucial, and if we can make the administration of that more efficient, we should.

The Education and Skills Committee’s stage 1 report expressed the committee’s view that it is “very concerned” with certain aspects of the bill. As Clare Adamson, Ross Greer and other members said in their speeches, one of those concerns is the impact that the bill could have on volunteers who are under the age of 16. The contribution that young people make through volunteering in any capacity cannot be overstated. Committee evidence revealed many concerns about the combination of the minimum age requirement of 16 and mandatory PVG

membership for regulated roles. Indeed, one organisation stated that it is likely that the bill will

“be interpreted to mean young people under 16 cannot undertake regulated roles.”

I appreciate that the Scottish Government acknowledges that concern, but the area will require further clarity as the bill progresses.

Another issue that was highlighted in the committee was how the proposal to move away from lifetime PVG memberships to a five-year renewal period would be implemented. There needs to be a proper transition so that organisations do not end up with a huge budget commitment at the same time every five years due to current PVG members renewing on the same day. The minister suggested a couple of options for addressing that issue in her response to the committee’s report, and I look forward to debating them at stage 2.

I turn to the bill’s promise to digitise the disclosure system. The end goal is to increase efficiency, which would be a welcome outcome, but there are grave lessons to be learned from the recent move to the new IT system, which is known as PASS, or protecting and safeguarding Scotland. In the chamber in June, I raised with the minister concerns about the robustness of any IT system tied to the Disclosure (Scotland) Bill. In response, the minister said:

“we are confident that the system is at an appropriate stage and will be completed in time for the delivery of the new services.”—[*Official Report*, 13 June 2019; c 69.]

Disclosure Scotland has a target to complete 90 per cent of disclosure checks within 14 days, but in September last year, the percentage of PVG checks completed within that target fell to 47.8 per cent, and in October it fell again, to just 12.5 per cent.

I heard at first hand about the huge delays to disclosure checks from childcare providers who were unable to put staff in place to work due to PVG checks taking twice as long as they should. At the end of October, I wrote to the Minister for Children and Young People, and in her response, she told me that the delays were partly due to seasonal pressures causing an increase to workloads and partly due to the “bedding in” of the new digital PASS system, which went live in September 2019.

The recent Audit Scotland report on Disclosure Scotland highlighted a reduction in its performance in November. That report made for very interesting reading. It included a summary of the transition to the PASS system, which showed that Disclosure Scotland’s June 2015 proposal to the Scottish Government to take the digital contract out of BT’s hands was rejected for its high cost: £77.2 million over the transition period of 2015-16 to 2022-23.

According to the Audit Scotland report, four months later, Disclosure Scotland returned with a second proposal, stating a projected cost of £34.1 million. The Scottish Government accepted the revised offer. However, in the years since, there have been several revisions to the budget forecast, and in November 2019, the costs were higher than the original figure of £77.2 million that was rejected by the SNP Government.

The bottom line is that the PASS system is over budget. It was not ready to be fully rolled out in September, and, as I previously stated, lessons have to be learned from that, especially in the light of digital updates being required with the passing of the disclosure bill. At this stage, I acknowledge the very pertinent comments that Alex Neil made about IT systems.

The final issue that I will discuss today is the bill’s coherence with other legislation that has been passed by the Scottish Parliament. As other members have mentioned, several recent parliamentary acts have legislated on similar issues to the ones on which this bill legislates. Those acts include the Age of Criminal Responsibility (Scotland) Act 2019 and the Management of Offenders (Scotland) Act 2019—very recent acts that may need to be amended to correct the contradictions and discrepancies that could arise because of the introduction of the bill.

I agree with the Education and Skills Committee’s conclusion about the importance of ensuring that no more discrepancies arise when incorporating the United Nations Convention on the Rights of the Child into Scots law. The minister’s response to the stage 1 report stated that the disclosure bill was designed with the principles of the UNCRC in mind, but it did not confirm that changes to the bill would not be required when incorporating the UNCRC into Scots law. Instead of taking a piecemeal approach to legislation, it is important to ensure that those pieces of legislation work well together, as Beatrice Wishart mentioned in her speech.

I reiterate that we will support the bill at stage 1. However, we fully believe that amendments and clarifications are required at stage 2 on the issues that have been raised in the chamber today—more issues than I have been able to cover—such as ORI, which I know that Mary Fee and Daniel Johnson have mentioned. I also appreciate that, in her opening speech, the minister said that there is a need for clarification and discussion on those.

Several MSPs have discussed the new lists of offences and regulated roles, and those are areas requiring close consideration going forward. For the continued protection of vulnerable groups—which everyone in the chamber acknowledges is essential—we need this legislation to be right.

16:47

**Maree Todd:** I thank the members for their contributions. I am very pleased that there is support throughout the chamber for the general principles of the bill.

The debate has been constructive, so I want to make it absolutely clear that I am committed to continuing to work together in this complex area. I have listened carefully to the debate and will consider the issues that have been raised today and in the committee's report, as we proceed.

The bill will enhance existing protections and close potential safeguarding gaps, thereby creating a more robust disclosure system. The bill refocuses the PVG scheme on people who have power or influence over children and protected adults.

It was evident from the Health and Sport Committee's consideration of child protection in sport—in particular, when it discussed the role of football scouts—that many people who were involved at senior level did not appreciate the power imbalance that exists between clubs and children. I reiterate my appreciation to the stakeholders who have engaged with us on the change to regulated roles, and who continue to provide feedback. It is absolutely vital in ensuring that the legislation provides sufficient coverage to protect vulnerable groups.

My priority is the continued ability of the disclosure system to support protection of the most vulnerable people in society. People who, because of their past conduct, are unsuitable for undertaking such roles must still be prevented from doing so.

However, it is important that children are treated as children. The children's hearings system and the focus on early and effective intervention provide a proportionate and flexible response to harmful or criminal behaviour by children. The disclosure system must be able to take a proportionate approach to including information from that meek period of life, and I believe that the bill allows us to do so.

It is important that we have a disclosure system that gives all applicants greater control over their information. Some people's past conduct makes them unsuitable for roles with vulnerable groups or valuable assets. However, that must not be used to prevent all people who have convictions from accessing employment, which we know helps to reduce reoffending. To do that would also deny our communities the value of such people's skills and experience. For most people with convictions, the passage of time and living a law-abiding life provides a basis for them to access work and make a great contribution to society.

I recognise that that can be difficult for employers, so I encourage anyone who wants to learn more about employing people with convictions to access the free "Scotland works for you" training that is offered by Disclosure Scotland. That initiative helps employers to understand how to make risk assessments on conviction and rehabilitation.

Legislation gives us the levers to reform disclosure. However, in order for individuals truly to be able to access their rights, comprehensive and accessible guidance about the disclosure system must be available, so the Scottish Government is committed to delivering that. Guidance will be provided in various formats for a range of audiences, and will be developed in conjunction with users and stakeholders, including children and young people and organisations that advocate for them. We already have interest from a range of groups that want to support Disclosure Scotland in developing the guidance.

I will pick up on a number of issues that were highlighted during the debate by multiple members. I assure members that if I do not manage to respond to particular issues, my door is always open, and I am more than willing to meet members and to facilitate access to officials, if they want further clarity.

On coherence, I refer members to the Government's written response to the committee's stage 1 report, which highlighted that

"The Government progressed all three pieces of legislation—the Age of Criminal Responsibility (Scotland) Act 2019, the Management of Offenders (Scotland) Act 2019 and the Disclosure (Scotland) Bill—by adopting a joined up policy model, sharing ideas, information and team members, ensuring policy coherence uniting the three.

Each Act (or Bill) has had its own parliamentary journey and the provisions of each are absolutely consistent with each other in broad policy terms".

**Liz Smith:** The minister is right that the Scottish Government has gone into considerable detail. I hope that it has done that with legal advisers on some of the definitions. The challenge that we face is in getting things across to some stakeholders—practitioners who will have to operate the system—because the language is complex. I ask the minister to reflect on that point.

**Maree Todd:** Certainly. I hope that members acknowledge that our work with stakeholders has been thorough and committed. We will continue that work and make sure that we respond to concerns that they raise during the progress of the bill.

When the bill was introduced last year, the other two connected pieces of legislation had not yet been enacted, so it is inevitable that there will be procedural and technical inconsistencies between

them that require to be remedied. We foresaw that and are committed to bringing everything fully into line by stage 2. I reassure the committee that the bill was drafted with regard to the UNCRC principles and the Children and Young People (Scotland) Act 2014.

Another frequently raised issue was decision making and the two-part test. As I set out in my opening remarks, I accept the calls to include more detail in the bill on decision making around the tests for relevance and what ought to be included. I am carefully considering the recommendations on how best to include those principles without compromising the flexibility that is necessary to give full consideration to each set of circumstances.

It is helpful to be clear about the type of information that we are talking about. The two-part test of whether something is relevant to the purpose of disclosure and ought to be included in the disclosure applies to three separate categories of information: other relevant information, childhood conviction information and removable convictions. Although the wording is the same, the tests will be applied in different contexts, depending on the information in question and the stage in the review process. Maintaining the same wording is absolutely crucial.

**Daniel Johnson:** Will the minister reflect on the fact, which I accept, that the test will apply differently in those different contexts, and consider whether that underlines the need for greater clarification and, perhaps, for including it in the bill?

**Maree Todd:** Certainly. As I set out in my opening remarks, I will lodge a stage 2 amendment to address the committee's recommendation to include the principles in the bill.

We have begun engagement with stakeholders to develop guidance that is to be used by decision makers. The crux of the issue is to make the outcome of any assessment or review process more foreseeable and accessible to disclosure applicants. User-friendly guidance is essential not just for applicants, but for those who support them.

A number of members talked about how challenging and complex the bill is. However, I have confidence that Parliament can rise to meet the challenges, and that our close working with stakeholders will enable us to communicate about the legislation once we have completed it.

Disclosure Scotland's digital transformation is paving the way for the work that will take forward the bill's provision's; many of the innovative changes in the bill could not have been implemented using the previous IT system. PASS is already dealing with all Disclosure Scotland's

current business, and we will work with our customers to ensure that there are solutions for delivery of the bill that meet everyone's needs. Lessons have been learned from implementation of the original PVG scheme in 2011 and the current digital transformation at Disclosure Scotland. The digital functions that will be required to implement the bill will be developed using Agile, as set out in the financial memorandum. Disclosure Scotland will begin the discovery phase for bill implementation in the coming months.

With regard to the Auditor General for Scotland's section 22 report, Disclosure Scotland will consider the report's findings and take appropriate action to address the points that have been raised. In fact, it has already made a number of changes to improve clarity of governance, including creation of a change delivery advisory panel to provide critical challenge, support and assurance.

**The Presiding Officer:** Can I take a moment to ask members to keep their conversations to a minimum? Thank you.

**Maree Todd:** Thank you.

The introduction of a minimum age on disclosure is not unique. The Disclosure and Barring Service introduced a lower limit of 16 years of age back in 2012 and AccessNI did the same in 2015. The legislation that we are introducing is therefore coming into line with what already occurs in the rest of the UK. I am conscious of the concern that an unintended consequence of the measure would be a reduction in volunteering opportunities for children. Disclosure Scotland will work with Volunteer Scotland disclosure services and across the Scottish Government to ensure that organisations that offer volunteering to under-16s understand the changes and continue to offer opportunities to children.

**Ross Greer:** Will the Government agree to the review that the Education and Skills Committee has asked for into the bill's impact on participation of under-16s in volunteering?

**Maree Todd:** Certainly. As I said, we are more than happy to work with bodies that represent volunteers in Scotland to see whether there is a change in the level of volunteering. As Mr Greer does, I understand just how significant children and young people's volunteering is. In fact, children and young people volunteer at about twice the rate of adults, so volunteering is important not only for children but for Scotland, so we must ensure that they are able to continue to volunteer and that we do not introduce any barriers to that.

On penalties for the offence under the bill, I reassure members that when we introduce a

mandatory scheme, it can be effective only if it is supported by a criminal offence for non-compliance. However, the penalties in the bill are consistent with provisions in existing legislation. Although the legislation currently includes the penalty of imprisonment, there has been no sentencing to prison of people who have not navigated the system appropriately since the legislation was introduced.

All those issues are important. I thank members for raising them throughout the debate. Although we are focusing on the general principles at this stage, I again reassure members that the discussion with stakeholders on the proposals in the bill, on implementation and on planning will continue.

I again offer to meet members from all parties. I am open to discussing the detail of the bill and taking the time that is needed to work through the complexities.

I consider that the committee's approval of the principles and the general tone of today's debate are indicative of a shared view across the parties that we need to reform the disclosure system. Together, we can ensure that it continues to protect the most vulnerable people in our society, while also being rights-respecting and proportionate. I look forward to taking our next steps together.

## Disclosure (Scotland) Bill: Financial Resolution

17:00

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of motion S5M-19992, in the name of Derek Mackay, on the financial resolution for the Disclosure (Scotland) Bill.

*Motion moved,*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Disclosure (Scotland) Bill, agrees to—

(a) 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, and

(b) any charge or payment in relation to which Rule 9.12.4 of the Standing Orders applies arising in consequence of the Act.—[Derek Mackay]

## Direct Payments to Farmers (Legislative Continuity) Bill

17:01

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of motion S5M-20456, in the name of Fergus Ewing, on the Direct Payments to Farmers (Legislative Continuity) Bill.

*Motion moved,*

That the Parliament agrees that the relevant provisions of the Direct Payments to Farmers (Legislative Continuity) 2020 Bill, introduced in the House of Commons on 9 January 2020, bringing the legislation governing the 2020 CAP direct payment schemes into domestic law, granting powers to fix deficiencies in that legislation and to keep pace with changes in EU law during the Implementation Period, so far as these matters fall within the legislative competence of the Scottish Parliament or alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.—[*Fergus Ewing*]

## Decision Time

17:01

**The Presiding Officer (Ken Macintosh):** The first question is, that motion S5M-20452, in the name of Maree Todd, on stage 1 of the Disclosure (Scotland) Bill, be agreed to.

*Motion agreed to,*

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

**The Presiding Officer:** The next question is, that motion S5M-19992, in the name of Derek Mackay, on the financial resolution for the Disclosure (Scotland) Bill, be agreed to.

*Motion agreed to,*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Disclosure (Scotland) Bill, agrees to—

(a) 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, and

(b) any charge or payment in relation to which Rule 9.12.4 of the Standing Orders applies arising in consequence of the Act.

**The Presiding Officer:** The final question is, that motion S5M-20456, in the name of Fergus Ewing, on the Direct Payments to Farmers (Legislative Continuity) Bill, be agreed to.

*Motion agreed to,*

That the Parliament agrees that the relevant provisions of the Direct Payments to Farmers (Legislative Continuity) 2020 Bill, introduced in the House of Commons on 9 January 2020, bringing the legislation governing the 2020 CAP direct payment schemes into domestic law, granting powers to fix deficiencies in that legislation and to keep pace with changes in EU law during the Implementation Period, so far as these matters fall within the legislative competence of the Scottish Parliament or alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.

## Point of Order

17:02

**Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP):** On a point of order, Presiding Officer. I apologise for not providing advance notice, but I did not have an opportunity to do that—time was lacking.

You will be aware that the Parliament has a duty to represent the people of Scotland. At the risk of saying something that people already know, the people and Parliament of Scotland have voted to indicate their preference to remain in the European Union, but despite that fact, Scotland will be taken out of the EU against its will in a few days' time.

I note from your announcement today that the Scottish Parliamentary Corporate Body has decided to lower the European Union flag at Holyrood. Arithmetic suggests that Conservative, Liberal Democrat and Labour MSP representatives on the corporate body voted for that. Given that the corporate body is accountable to Parliament, what means exist for members—or, indeed, the chamber as a whole—to challenge any decision of the corporate body, or to take such a decision into their own hands?

**The Presiding Officer (Ken Macintosh):** I thank Dr Allan for his point of order. For information purposes, I will correct Dr Allan. The corporate body discussed the matter at length and was very aware of the political sensitivities and the feelings of members and of the people of Scotland generally.

The decision was delegated to the corporate body in order to make it a non-political decision. *[Interruption.]* There is a huge amount of symbolism and politics in flag waving and flag flying, as members will know. The corporate body takes decisions in the interests of the Parliament, not in the interests of any party. It is a neutral and trusted institution. The members of the corporate body were very aware of the need to act in that way and not to take a political decision on the matter. It is a matter for the corporate body and not one for other parts of the Parliament. *[Interruption.]* I hope that that answers the member's point.

*Meeting closed at 17:04.*

This is the final edition of the *Official Report* for this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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