



OFFICIAL REPORT  
AITHISG OIFIGEIL

# Meeting of the Parliament

Tuesday 13 December 2022

Session 6



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**Tuesday 13 December 2022**

**CONTENTS**

	<b>Col.</b>
<b>TIME FOR REFLECTION</b> .....	1
<b>TOPICAL QUESTION TIME</b> .....	3
Homeless People (Winter Access to Housing).....	3
Lockerbie Bombing (Detention of Suspect).....	5
<b>MEDICATION ASSISTED TREATMENT AND WORKFORCE UPDATE</b> .....	8
<i>Statement—[Angela Constance].</i>	
The Minister for Drugs Policy (Angela Constance) .....	8
<b>MOVEABLE TRANSACTIONS (SCOTLAND) BILL: STAGE 1</b> .....	20
<i>Motion moved—[Tom Arthur].</i>	
The Minister for Public Finance, Planning and Community Wealth (Tom Arthur).....	20
Stuart McMillan (Greenock and Inverclyde) (SNP) .....	24
Jeremy Balfour (Lothian) (Con) .....	28
Paul Sweeney (Glasgow) (Lab).....	30
Bill Kidd (Glasgow Anniesland) (SNP).....	33
Katy Clark (West Scotland) (Lab).....	35
Michelle Thomson (Falkirk East) (SNP) .....	37
Maggie Chapman (North East Scotland) (Green) .....	39
Jenni Minto (Argyll and Bute) (SNP).....	41
Jackie Dunbar (Aberdeen Donside) (SNP) .....	43
Martin Whitfield (South Scotland) (Lab) .....	46
Paul McLennan (East Lothian) (SNP) .....	49
Paul Sweeney (Glasgow) (Lab).....	51
Oliver Mundell (Dumfriesshire) (Con).....	54
Tom Arthur.....	55
<b>POINT OF ORDER</b> .....	59
<b>MOVEABLE TRANSACTIONS (SCOTLAND) BILL: FINANCIAL RESOLUTION</b> .....	61
<i>Motion moved—[John Swinney].</i>	
<b>BUSINESS MOTION</b> .....	62
<i>Motion moved—[George Adam]—and agreed to.</i>	
<b>MOTION WITHOUT NOTICE</b> .....	63
<i>Motion moved—[George Adam]—and agreed to.</i>	
<b>DECISION TIME</b> .....	64
<b>FREE RAIL TRAVEL (BLIND AND PARTIALLY SIGHTED PEOPLE AND COMPANIONS)</b> .....	65
<i>Motion debated—[Graham Simpson].</i>	
Graham Simpson (Central Scotland) (Con) .....	65
Rona Mackay (Strathkelvin and Bearsden) (SNP) .....	67
Neil Bibby (West Scotland) (Lab) .....	69
Russell Findlay (West Scotland) (Con).....	70
Katy Clark (West Scotland) (Lab) .....	71
The Minister for Transport (Jenny Gilruth) .....	73

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# Scottish Parliament

*Tuesday 13 December 2022*

*[The Presiding Officer opened the meeting at 14:00]*

## Time for Reflection

**The Presiding Officer (Alison Johnstone):** Good afternoon. The first item of business is time for reflection. Our time for reflection leader today is the Rev Neil Gardner, who is minister at the Canongate kirk.

**The Rev Neil Gardner (Canongate Kirk):** It is good to be with you today, and it was particularly good to welcome a number of members of the Scottish Parliament to Canongate kirk last week for a carol service in aid of Crisis, which is a charity that is committed to tackling homelessness. As a city-centre church, we host a number of such events at this time of year and, since that event last Wednesday evening, we have welcomed friends and supporters of the armed forces benevolent funds and Legion Scotland. However, there is always something distinctive about Crisis at Christmas. I suppose that that is partly because of how the familiar gospel story of a young couple suffering rejection and struggling to find somewhere to stay strikes a particular chord and how the organisers work into the service something of their clients' own stories, as they did again last week to great effect.

My most poignant memory of a Crisis service is from the Christmas just before lockdown. It comes not from words that were spoken, but from words that were sung, and the song was not a traditional Christmas carol—it was Simon and Garfunkel's "Bridge Over Troubled Water". The words are familiar enough, but they took on a special resonance when sung alongside people who had been homeless:

"When you're down and out  
When you're on the street  
When evening falls so hard  
I will comfort you  
I'll take your part  
When darkness comes  
And pain is all around  
Like a bridge over troubled water  
I will lay me down".

We did not sing the song particularly well—not everybody was in tune or in time—but it was deeply moving. At the end, there was a natural time for reflection as each of us considered what the words meant in such a context—not least to those for whom they had such profound and personal resonance; those who had been down and out, on the street when evening falls and

darkness comes, and pain and cold are all around. Suddenly, the old words came to new life. For me, "Bridge Over Troubled Water" has never sounded quite the same since.

Among his lyrics about darkness and pain, Paul Simon also wrote about comfort and hope, which are themes that lie at the heart of the Christmas message itself, in which God in Christ lays himself down, like a bridge over troubled water—a source of comfort at a time of crisis, now as then.

Happy Christmas.

## Topical Question Time

14:03

### Homeless People (Winter Access to Housing)

**1. Foysoyl Choudhury (Lothian) (Lab):** To ask the Scottish Government, after Scotland experienced its coldest night of the year with temperatures as low as minus 15.6°C, what action it is taking to ensure that homeless individuals have access to safe, warm housing during this winter period. (S6T-01046)

**The Cabinet Secretary for Social Justice, Housing and Local Government (Shona Robison):** Scotland has some of the strongest homelessness legislation in the world, and local authorities have a legal duty to provide accommodation to anyone who is at risk of homelessness. It is particularly important that people can access accommodation immediately during cold weather. That is why we have provided over £907,000 of funding since 2020 to support the operation of rapid rehousing welcome centres in Glasgow and Edinburgh through the winter. Those centres provide people who are at risk of rough sleeping with 24/7 immediate access to accommodation alongside wraparound support to move on to settled accommodation.

**Foysoyl Choudhury:** National Records of Scotland recently released statistics that showed that 250 homeless individuals died in Scotland last year. Ahead of the Scottish budget on Thursday, what assessment has the Scottish Government made of the impact of on-going cuts to councils' budgets on their ability to provide services that aim to alleviate those tragedies?

**Shona Robison:** The death of any homeless person is a tragedy and something that we want to avoid. We understand some of the complexities for people who have complex needs, which we need to address in the round. That is why our housing first approach is not just about getting people into accommodation but is about providing wraparound support to address addiction and mental health issues. We are providing funding through local authorities to do that, and we will continue to provide that because of its importance.

**Foysoyl Choudhury:** The Scottish Government's response to the Covid-19 pandemic included accommodating in hotels and other single-room accommodation people who had been sleeping rough. Under its "Ending Homelessness Together" action plan, will the Scottish Government make similar provision for weather crises such as cold spells, and prioritise the transition to settled accommodation after such crises?

**Shona Robison:** Nobody in Scotland should have to sleep rough; we do not want anyone to sleep rough. That is why we are working with local authorities, including the City of Edinburgh Council, to identify further solutions that will build on and expand the rapid rehousing welcome centre provision in the short term, because we recognise that winter is really challenging. We are confident that, by doing so, we will protect those who are at risk of rough sleeping in Edinburgh, and support them into more settled accommodation.

Although rough sleeping levels remain low, we do not want anyone to sleep rough. We want the capacity to be available to ensure that everyone has a bed for the night and does not sleep rough.

**Emma Harper (South Scotland) (SNP):** How will the recently introduced legislation to remove the local-connection test help to ensure that people find a settled home and access to support as quickly as possible in an area that they choose?

**Shona Robison:** The rules on local connection were recognised as a barrier to accessing homelessness services, which is why we chose to remove them. That move was welcomed by people with lived experience of homelessness.

Most people who are homeless want to live in a community where they are already settled, but the new legislation allows people who are experiencing homelessness to move somewhere new if they want to. That puts homeless households' rights on a par with those of people who own or rent their homes and ensures that they have access to consistent services wherever they are in Scotland.

**Jeremy Balfour (Lothian) (Con):** It is not just homeless people who are cold; people who are in housing are, too. Last week, the Social Justice and Social Security Committee discussed how the winter heating assistance payment will not be made until February next year, which means that many families will be left to struggle through the worst of the winter without support. How does the cabinet secretary expect such families to pay for heating in December and January? Does she consider that that delay ensures dignity, fairness and respect for people who need our help?

**Shona Robison:** What Jeremy Balfour did not say is that the winter heating assistance payment will reach more people and will do so regularly, rather than having to be triggered by the weather. Cold weather payments are not always made and, when they are made, that does not happen consistently everywhere. Winter heating assistance will provide to more people a payment that they can expect to get, rather than a payment that must be triggered by cold weather.

Jeremy Balfour will be aware that that is not the only support that we are providing to people. The fuel insecurity fund has been doubled to £20 million, and I urge anyone who is struggling with their heating bills and who might be eligible to access that fund to access it. People can find more information on the cost of living pages on the Scottish Government's website.

### **Lockerbie Bombing (Detention of Suspect)**

2. **Jamie Greene (West Scotland) (Con):** To ask the Scottish Government what its response is to reports that a suspect involved in the 1988 Lockerbie bombing has been detained in custody by US authorities. (S6T-01041)

**The Lord Advocate (Dorothy Bain KC):** The bombing of Pan Am 103, in which 270 people tragically lost their lives, remains the deadliest terrorist attack in the United Kingdom, and I express my sincere condolences to all those who have suffered so much as a result of that dreadful act.

Scottish prosecutors and Police Scotland welcome the significant steps that the US justice authorities have taken. Seeking to bring to justice all those who were involved in this act of state-sponsored terrorism was, and remains, a shared endeavour. The suspect is an individual who featured on the original Scottish indictment, and investigations into his involvement have continued over the years.

Scottish prosecutors and law enforcement stand ready to afford all possible co-operation to our US partners in accordance with the rule of law and will continue to pursue the investigation into the involvement of all those who were part of this terrorist attack.

**Jamie Greene:** I thank the Lord Advocate for that response and welcome her to her place.

As we approach the 34th anniversary of the Lockerbie air disaster, in just over a week's time, all our thoughts are with the victims and their families. Despite three decades passing, the families have all shown tremendous courage, hope and conviction that justice will finally be fully served, which is why this development is of such profound importance to them.

I understand that the Lord Advocate may be travelling to the United States next week to meet US authorities and to attend remembrance events for the anniversary of the tragedy. In that light, can she tell me what discussions took place between US authorities and the Crown in advance of, or around, the arrest of Mr Abu Masud; what the Crown hopes to achieve from any discussions that it has in the US with authorities there; and, more important, what discussions the Crown has had or is having with families of those affected by the

tragedy to ensure that they are kept fully informed of any important developments?

**The Lord Advocate:** I have met the US Deputy Attorney General on three occasions this year, and Scottish prosecutors and police officers have worked on the investigations with their US colleagues since the conclusion of the trial against Megrahi and Fhima in 2001. For more than 20 years, the Crown Office and Procurator Fiscal Service has maintained a case team working on the investigation, which has brought together a range of prosecutorial expertise in counterterrorism, major crime investigations, forensic analysis, international co-operation and mutual legal assistance. I thank the team for their unfailing dedication to bringing suspects in this case to justice.

In meeting again with the US Deputy Attorney General next week, I shall begin to discuss further how we can assist the US in the work that it is now doing in relation to this particular suspect. The families who are involved in this terrible case have been kept up to date all along the way by the Crown Office and Procurator Fiscal Service and by the US justice authorities. They have worked closely together throughout the years, and have consistently provided, as a joint endeavour, support to all the families as well as keeping them up to date on all the recent developments in the case.

The US authorities have confirmed that Mr Masud was transferred to US custody on a lawful basis, following upon US authorities making a formal extradition request for him from Libya to stand trial in the US in March 2021. I simply repeat that Scottish prosecutors and law enforcement stand ready to afford all possible co-operation to our US partners in accordance with the rule of law.

**Jamie Greene:** I thank the Lord Advocate for that further update.

The eyes of the world are on us now as the situation develops, and regarding what might happen next, but the big question on the lips of many will be where, and how, Mr Masud may face trial. Historically, the trial of Abdelbaset al-Megrahi was convened at the Scottish High Court of Justiciary at Camp Zeist in the Netherlands in the year 2000. He was tried under Scots law, after extensive negotiations at the time. What is the Crown's position, or preferred position, on where any trial of Mr Masud should or could take place? Does the Crown believe that any future trial should also be governed under Scots law? If so, what preparations has the Crown Office made for any potential trial, wherever and however it occurs?

**The Lord Advocate:** A joint investigation is being carried out, with American and Scottish prosecutors and law enforcement officers working

together, as they have done for the past 34 years. There are no current criminal proceedings in Scotland against Mr Masud.

I acknowledge that there are mixed views among the families about this development. The United States and Scotland share criminal jurisdiction for the terrorist attack, but it was clearly an attack against the United States. The bomb's target was a US plane en route to New York, with 190 US citizens on board. Until the events of September 11, it was the deadliest terrorist attack on the United States.

**Colin Smyth (South Scotland) (Lab):** The run-up to 21 December is already an incredibly difficult time for families who lost loved ones in the bombing of Pan Am flight 103 and for the community of Lockerbie. Everyone wants to see justice, and there are many unanswered questions, but there will be some trepidation about the timing of this development and what it will mean in relation to the focus on a community that is trying to go about its business at what is already a very difficult time of year.

I ask that, in the Lord Advocate's discussions with American authorities, she urges them to be absolutely conscious at all times about the impact that such developments have on the community in Lockerbie. Does she agree that, at this time of year more than ever, our thoughts are not with those who perpetrated this appalling crime but with those who lost loved ones and the communities in Lockerbie and around the world who have given so much support to everyone affected by the bombing more than 34 years ago?

**The Lord Advocate:** I completely agree with that. We should bear it in mind that, in March 2021, the US authorities made a formal extradition request for the suspect from Libya to stand trial in the US, and it was only in the past few days that they confirmed publicly that his transfer to US custody was, indeed, lawful. Scottish prosecutors and law enforcement officers stand ready to afford all possible co-operation to our US partners, in accordance with the rule of law.

We will always be mindful of the deep tragedy that those events inflicted on the people of Lockerbie.

## Medication Assisted Treatment and Workforce Update

### **The Presiding Officer (Alison Johnstone):**

The next item of business is a statement by Angela Constance on medication assisted treatment and workforce update. As the minister will take questions at the end of her statement, there should be no interventions or interruptions.

14:18

**The Minister for Drugs Policy (Angela Constance):** Every life that is lost to drugs is tragic and unacceptable. I convey my condolences to those who have lost a loved one and reaffirm my commitment to saving and improving lives.

Today, I will provide Parliament with an update on progress in implementing the MAT standards and tackling the related workforce challenges. First, however, I will say a few words about the quarterly figures that were published today, which are based on data from Police Scotland. Police Scotland has reported that, during the first nine months of 2022, there were 797 suspected drug deaths—21 per cent fewer than there were during the same period of 2021. Although that figure cannot be used to make accurate predictions about the status of the annual report for 2022, which will be about confirmed cases, it enables services to identify where help might be needed and keeps Parliament abreast of developments.

In June, when I provided my previous update to Parliament on the MAT standards, the Public Health Scotland benchmarking report was published. That report confirmed that, although most areas had at least partially implemented MAT standards 1 to 5, performance fell short of the challenge that I had set to embed MAT standards by April of this year.

Although the report demonstrated that progress was being made on the ground, the pace and scale of change were neither good enough nor quick enough, especially around MAT standard 1, which is on same-day treatment. That is why I took the unprecedented step of issuing a letter of direction to delivery partners, asking them to personally sign a timed and detailed implementation plan for all 10 standards.

I can confirm that all areas have submitted their plans. We are now finalising the details and ensuring that the plans have been published on websites. Areas are already reporting regularly to the Scottish Government on progress, either monthly or quarterly, and I continue to meet chief officers and MAT leads from each area to discuss their plans and learn more about how they are meeting their local challenges.

Some areas, such as the Borders, have already achieved good things. The MAT implementation support team, which is led by Public Health Scotland, has also reported good progress on implementing same-day treatment across other parts of the country, with special mentions for the work that is being done in Inverclyde, East Dunbartonshire, Moray and West Dunbartonshire. The MIST has noted increased involvement from senior leadership in many areas, as well as improvements in pathways for people accessing treatment and better interorganisational sharing of best practice.

The MIST also notes that Reach Advocacy Scotland's rights-based advocacy training has now been delivered across multiple alcohol and drug partnership areas, with further training planned. However, there are areas that still have challenges to overcome, and the MIST is supporting them to address recruitment, local communication issues and unnecessary structural barriers, including a persistence in some areas to continue not to involve third sector partners closely enough. Those issues are the focus of teams locally to ensure that the necessary changes and improvements are being actioned at pace.

We know that many people with a substance use problem also have a mental health concern and that, to address one, we often must also address the other. That is why, along with the Minister for Mental Wellbeing and Social Care, I commissioned a rapid review into care for people with co-occurring mental health and substance use concerns. The review's findings, which were published on 30 November, will help inform our work to better integrate mental health and substance use services and deliver MAT standard 9.

The review includes recommendations on how to better integrate services, but it also reaffirms the challenges that exist. A survey of practitioners found that more than a third of the respondents work in substance use services that do not offer mental health support. That is troubling, as a lack of integration between mental health and substance use services is a key barrier to accessing adequate treatment and support. We are considering the recommendations now and will engage with stakeholders and local partners, and in the early part of next year, I will update Parliament on how we will accelerate the integration of services.

In relation to workforce, we know about the challenges across health and social care. That is one of the reasons why we need a longer-term workforce development plan for the delivery of MAT standards and for our wider national mission. Today, I would like to set out how we plan to expand and upskill the workforce.

I have seen at first hand and have heard directly from those delivering life-saving work in this often challenging environment. I know that there have been issues around recruitment, retention and service design. Indeed, those points were echoed throughout the research that the Scottish Government published in March.

In June, I outlined to Parliament that the majority of the additional £10 million per year MAT funding would be focused on recruiting more than 100 additional staff. I am encouraged to learn that, although that is not without its challenges, many local areas are reporting that they have made significant progress towards the targets that they have set for themselves.

In order to support and strengthen the workforce, the Scottish Government has brought together an expert group with front-line and real-life experience to develop a longer-term workforce plan, as recommended by the drug deaths task force. That plan, which we will publish in the summer of next year, will set out the medium-term and longer-term steps that are required to overcome key workforce challenges. The group has been able to successfully agree a number of short-term outcomes and has already begun to drive them forward. One example is the development of a single platform for access to training and key workforce resources. That will be launched by the summer of next year and will support the upskilling and retention of staff through improved access to continuous professional development.

People with lived and living experience need better support to pursue careers within the sector, and the expert group is developing guidance that will put in place the right support to help peers play a more active role in the design and delivery of services. Cross-Government work will also be progressed to provide through the "No one left behind" strategy employment support to people who use drugs.

It is anticipated that those measures will, to some extent, contribute to improved staff wellbeing, which is a key priority. However, I should also point out that the Scottish Government has also made £12 million available to support that and has introduced a national wellbeing hub.

We know that workforce planning needs to be grounded in a firm grasp of the diverse landscape of services, providers, locations and professionals working in the sector. In order to establish that, service mapping work is under way, alongside much-needed work to improve workforce data capture.

There has been much discussion on the timescale for full implementation of MAT standards. Clearly, the ambitious target that I set

to have the standards embedded by this year was really stretching for services. However, with drug deaths at a record high, immediate change had to be driven hard and momentum had to be put into the system.

I want all 10 standards to be implemented in a sustainable way that will make a long-term difference to all those in treatment. We have not chosen an easy path in judging whether the standards are in place; we have—rightly—set the bar high by insisting that only when areas have positive experiential evidence from people using the services on the ground, will they be able to claim that better services are in place. Ultimately, that is the measure that matters the most.

The work that is being done to support local areas to fully implement the standards has thrown into sharp focus some of the challenges that we need to overcome. In light of the scale of some of those challenges, particularly in justice settings, I am accepting the timescales for full implementation in community and justice settings that were recommended by Public Health Scotland in its benchmarking report in June. The phased approach being taken between now and April 2025 with clearly identified milestones, as recommended by Public Health Scotland, means that we can continue to progress with the breadth and depth of the programme and ensure that the MAT standards work not just for the people delivering them but, most of all, for those who need them.

Public Health Scotland will continue to provide support to deliver against that timescale and will continue to publish progress reports, and I will continue to update Parliament in June and December next year. In time for my next update in June, Public Health Scotland will once again publish a full red-amber-green report to track progress.

However, we need more than just those 10 standards. I want to see an expansion of standards for other kinds of drug treatment, as well. I want to expand the scope of the standards so that they include leadership, women and children and the whole-family approach, and treatment options for benzodiazepines. Such an expansion links to actions that have been called for by the task force on a national specification for treatment and recovery services, whose recommendations the Government will be responding to in the coming weeks.

The work on MAT is interlinked with the whole of the national mission and the actions being taken forward as part of the cross-Government plan. That work is saving lives, tackling stigma and giving a voice to people who thought that they had none. It is giving a stigmatised population and

workforce a platform from which to change and save lives.

**The Presiding Officer:** The minister will now take questions on issues that were raised in her statement. I intend to allow around 20 minutes for questions, after which we will move on to the next item of business. I will be grateful if members who wish to ask a question would press their request-to-speak buttons now.

**Sandesh Gulhane (Glasgow) (Con):** I commend the minister on her candour. In 2021, there were 1,330 drug-related deaths in Scotland. That is not just a number; it represents 1,330 families who are suffering in anguish due to the failure of Scottish National Party drugs policy. Scotland's drug-death rate is 3.7 times that of the United Kingdom as a whole and is higher than that of any European country. That is not just a statistic; those figures are about our communities—Scottish communities up and down the country that are suffering through a drugs epidemic.

There was a lot of high-level policy and management discussion in the statement. What we must have is delivery and improvement on the ground. I hope that the minister will be able to provide that at her next update.

Now that plans are finally in place, is the minister confident that MAT standards 1 to 5 will be met by 2023, and what action will she take if milestones are not achieved?

**Angela Constance:** I am sure that Mr Gulhane will agree that MAT standards define what is needed for safe, accessible and consistent treatment the length and breadth of Scotland. They are not optional and are most certainly not a tick-box exercise. I have been, and will continue to be, clear and direct with Parliament and our partners about progress and pace. I have taken unprecedented actions that are providing unprecedented scrutiny and support, and are about maintaining momentum to ensure that we can deliver on the ground.

I accept Public Health Scotland's findings and recommendations, which are based on a robust evidence-based plan that PHS has published. They remain challenging and are ambitious, but they are achievable, and the PHS report has set out clear milestones. I am determined that, every day, we will put our shoulder to the wheel to ensure that we build on the progress that has been made.

The importance of Public Health Scotland's work in the area is that, come June, it will once again shine a light on what has and has not been achieved. I assure Mr Gulhane and other members that the findings will very much inform future action on support and scrutiny.

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

According to today's Police Scotland publication, there were nearly 800 suspected drug deaths from January to September. On the current trajectory, it is likely that, by the end of the year, if a public health emergency is declared by the Scottish Government, the number of deaths will be in excess of 3,500. Although the Government's focus is on reducing the number of fatalities, is it developing an understanding of which policy approach is having the most impact, to inform future practice?

The minister says that she accepts Public Health Scotland's recommendation that standards 1 to 5 be implemented by April 2023, but is she confident, based on the reports that she is receiving to which we do not have access, that the target will be met by then? Although the target for standards 6 to 10 is more than two years away, at the current pace of progress we need work to be done on those areas right now. Is the funding in place to support implementation of standards 6 to 10?

Finally, of the 100 additional staff to whom the minister referred, how many have been recruited?

**Angela Constance:** I very much appreciate Ms Baker's unswerving and unequivocal support for implementation of the medication-assisted treatment standards. She is right to have pointed out that one death is one too many. The suspected drug deaths numbers in the most recent published quarterly figures that have been reported on today show the lowest recorded number of suspected drug deaths in a single calendar quarter since January to March 2007. However, I always add caveats on such figures, because suspected drug deaths statistics are not the same as the confirmed number of deaths.

There is an outcomes framework for our national mission plan, and we have done in-depth work in order to be clear about our response on those outcomes, and on tracking and monitoring where we are having more success and where challenges remain.

I repeat what I said to Mr Gulhane: the timelines for the work are challenging. There are various challenges, which we are all familiar with, across the health and social care sector, but resolving them is achievable. As always, I give the undertaking that where problems exist and where, by shining a light, we uncover more issues, they will have my full and undivided attention.

Standards 1 to 5 are about the standard of care that individuals receive, but standards 6 to 10 are important because they are about the systemic changes that we must make. The identification of senior leads in every area in that regard is of particular importance.

Ms Baker was correct to mention the £10 million that is based on locally agreed plans. Although recruitment challenges remain, I am encouraged that some areas have done well against their targets. I am happy to discuss that further with her. It is important to note that in MAT standard 1, on same-day treatment, we are beginning to see a shift from red to amber and, in some cases, to green. I will keep her updated.

**Gillian Martin (Aberdeenshire East) (SNP):**

The minister mentioned the whole-family approach in her statement. The MAT work principles state that families who are affected by substance use must be reached at local and national levels. What support is currently being provided to establish advocacy services in local areas and to empower families to have a voice in ensuring that systems and services are non-discriminatory and actively put their lived experience at the heart of services?

**Angela Constance:** Families are partners in their loved ones' recovery and in the change that we need in how services are provided across the country. MAT standard 8 is clear that the people who use services should have access to independent advocacy, whether that is for their treatment, housing, welfare or income. People should also be fully informed about the advocacy services that are available locally.

As I indicated in my statement, we will continue working closely with the MAT implementation support team. The Government has made substantial funding commitments, from Corra Foundation and alcohol and drug partnerships funding, to the whole-family approach and family-inclusive practice. We are auditing the outcomes.

It is also imperative that families receive support in their own right. I pay tribute to Reach Advocacy, which is funded by the Corra Foundation to embed a human rights-based approach to service delivery. The Reach Advocacy project provides to practitioners, families and people who use drug, training that is accredited by the Scottish Qualifications Authority.

**Sue Webber (Lothian) (Con):** I apologise for my late arrival in the chamber.

The minister has rightly said that the work is about saving lives, tackling stigma and giving a voice to those who thought that they had no voice. Angela Constance stated that

"we need more than just these 10 standards. I want to see an expansion of standards for other kinds of drug treatment, as well."

Will the minister listen to FAVOR—Faces and Voices of Recovery—which has called on the Scottish Government to introduce our proposed right to recovery bill to ensure that MAT standards are properly implemented?

**Angela Constance:** I will give a fair and listening ear to all stakeholders and all members from across the chamber. I will look at the proposed right to recovery bill with great interest once it is published. The member will understand that, in the meantime, the Government must pursue its own legislative programme, which includes the creation of the national care service to provide a single framework for accountability.

We will also consult on the proposed human rights bill next year. I am sure that we can all agree that that is about achieving the highest attainable standard of physical and mental health. The work that the national collaborative is doing to galvanise the voices of lived and living experience and of families in developing a charter of rights, which will inform that human rights bill, is important.

**Joe FitzPatrick (Dundee City West) (SNP):** I thank the minister for her update. She knows how important I think implementation of the MAT standards is.

Will the minister provide us with an update on progress towards establishing diamorphine-assisted treatment in Dundee for the most vulnerable members of the community?

**Angela Constance:** Scottish Government officials have met with the Dundee alcohol and drugs partnership on a number of occasions to discuss the potential to establish diamorphine-assisted treatment, otherwise known as DAT or HAT—heroin assisted treatment. The most recent meeting was at the end of November and the discussion focused on work that the Dundee ADP is considering undertaking on a fully costed scoping study to establish the need for such a facility. That work is being done in partnership, in particular with the third sector. The Scottish Government has confirmed that funding would be available to support that scoping work.

Cranstoun is a charity that many of us in the chamber are familiar with. It has made clear its desire to establish a DAT facility in Dundee and has been in talks with partners. At its meeting on 6 December, the Dundee ADP considered a proposal from Cranstoun and agreed to move forward with the scoping study. The independent chair of the ADP has written to Cranstoun to keep it apprised. Scottish Government officials are due to meet colleagues from Cranstoun again on 19 December.

**Paul Sweeney (Glasgow) (Lab):** In June, the minister advised Parliament that the remainder of the £10 million a year MAT funding had been earmarked for the recruitment of more than 100 additional staff. She has highlighted that progress has been made in some areas. However, given that Glasgow has the highest proportion of drug

deaths in Scotland and not a single MAT standard had been fully implemented in the city by the target date that the minister set, will she update the Parliament on how many additional staff have been recruited in Glasgow and how much of that £10 million has been allocated to Glasgow in particular?

**Angela Constance:** The funding that comes through the MAT standards work was based on locally agreed action plans. I can, of course, provide Mr Sweeney with further information on some of the specifics in and around Glasgow.

Significant amounts of Corra Foundation funding have gone to Glasgow, and there is substantial investment in Glasgow through the funding that goes via the NHS and the integration authorities. From memory, I think that that amounts to £12 million, but I will provide Mr Sweeney with some of the specifics that he is looking for.

**Audrey Nicoll (Aberdeen South and North Kincardine) (SNP):** The MAT standards emphasise a multipronged approach to treatment and residential rehabilitation as a potential course for support. Given the work to ensure that the MAT standards are met, can the minister provide an update on the efforts to increase the numbers of people who are publicly funded for the residential rehabilitation programmes?

**Angela Constance:** It is really important that the work to implement the MAT standards is also fully connected with pathways into residential rehabilitation. Some of the work that we are doing with our agencies is about making sure that we have that wider connectivity.

I think that the Parliament is well aware of the Scottish Government's commitment to ensuring that a minimum of 1,000 places are funded publicly by the end of the current session of Parliament. We are providing alcohol and drug partnerships with £5 million a year to facilitate additional placements in residential rehabilitation and detox, and placements are also supported via the prison to rehab pathway.

Public Health Scotland is providing quarterly reports, and we have seen a steady increase over the past quarters, with an increasing number of placements being made via ADPs. In the most recent quarter for which figures have been published, there were 170 referrals, which was the highest number on record. To date, the national mission has supported more than 700 referrals to residential rehabilitation.

**Alex Cole-Hamilton (Edinburgh Western) (LD):** Can I take the minister back to our previous exchange on the topic in the chamber, which was about issues surrounding rurality? Despite the progress that has been made around MAT standards, which is welcome, it is still proving very

difficult for people to access same-day services in rural areas, with clinics being few and far between. A huge issue around accessing those services is transport and the difficulties that many people have in accessing them because they are some distance away.

What are the Government's plans to increase the provision of same-day services in rural areas? What will the Government consider doing to explore ways of providing such access to transport as is needed to ensure that those who need urgent same-day care can access it at a clinic that is far away from them?

**Angela Constance:** Mr Cole-Hamilton is quite correct to make the link with transport. I assure him that issues of transport will feature when I come back to Parliament to present the cross-Government action plan, as recommended by the task force. He is also quite correct to point to some of the challenges that exist in our more rural communities and particularly our island communities. Argyll and Bute contains 22 islands, for example.

Through the MAT standards implementation support team, we are seeing some real creativity and commitment to doing things differently in our rural areas. Partnership with the third sector is vital in this area. In my most recent appearance at committee, I gave Mr Cole-Hamilton a commitment to provide some case studies on that point to exemplify the good work that is being done.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** I remind members that I am the vice-chair of the local addiction service Moving On Inverclyde.

What consideration has been given to assisting the third sector when it comes to prescribing?

**Angela Constance:** The Scottish Government fully supports the need for prescribing services to work closely with third sector partners, which often have prescribers for the services that they provide. The work that is being undertaken by the MIST will allow local areas to deliver greater access and choice of treatment by identifying local third sector prescribing options.

In addition, the MIST has restarted a non-medical prescribing forum for non-medical prescribers who deliver MAT. I am pleased to say that that includes the third sector. As an example of what can be done, nursing staff are employed in Turning Point Scotland's Glasgow service. It is important to remember that, under MAT standard 5, there is scope to encourage local areas to involve the third sector in the provision of more joined-up prescribing—bearing in mind that MAT 5 is about the retention of people in treatment, which

is crucial to achieving our overall treatment targets.

**Gillian Mackay (Central Scotland) (Green):** I thank the minister for providing advance sight of her statement. She referred to the upskilling of the workforce. We know that stigma plays a large part in why some people may not present to services in the first place or may not continue in treatment; in addition, we are aware of the stigma that is attached to those who work in the sector. As part of that upskilling, what is being done to embed practice that does not further embed stigma and that assists cultural change?

**Angela Constance:** In my statement, I intimated the shorter-term actions that are currently being pursued. However, in the longer-term action plan that we will bring forward next year, we will outline the core skills, knowledge, values and training that will be required.

It is true that many staff do not feel as valued as others who work in health and social care or in other emergency settings, and it is crucial that we improve public awareness of their vital work. That is one way of challenging stigma and increasing the attractiveness of the vital work in the sector.

There are some great programmes out there. We want to develop better educational pathways. The Scottish Drugs Forum's addiction worker training project is a good example of what can be done to bring people with lived and living experience into the sector. Since 2005, more than 300 people have enrolled in that excellent training programme.

**Jackie Dunbar (Aberdeen Donside) (SNP):** My question follows on from Gillian Mackay's. Will the minister outline the resources that are being provided to recruit, train and retain staff within the ADP workforce?

**Angela Constance:** It is important to remember that alcohol and drug partnerships bring together local delivery partners that are responsible for the commissioning and development of services. I have spoken about the £10 million per annum that is dedicated to supporting the implementation of the MAT standards. However, it is also worth remembering that, in this financial year—2022-23—£106 million is being made available to alcohol and drug partnerships to support local and national initiatives; that a skilled and resilient workforce is a cross-cutting priority that underpins all the work in the national mission; and that addressing recruitment, retention and training challenges is absolutely key to the development of our workforce.

**Craig Hoy (South Scotland) (Con):** The Government's failure to fully embed the MAT standards is a cause of growing concern, and it

comes alongside cuts to primary care, front-line policing, council budgets and justice.

The minister said that there was a clear link between drugs policy and mental health policy, yet the Scottish Government has just slashed the mental health budget by £38 million. Does the minister share my concern that, sadly, when it comes to ending the harm that is done by drugs, avoidable SNP budget cuts are setting Scotland on a path to failure?

**Angela Constance:** I make it clear that the work that we are engaged in in rolling out MAT is key to removing the barriers that persist in and around people's access to mental health. Work on that is under way. Kevin Stewart and I are involved in joint work on pathways—£2 million is being invested in expanding that pathways work into five health boards—and the Mental Welfare Commission for Scotland report and the rapid review that I commissioned point to the same, pragmatic solutions.

On resource, I point to the fact that the mental health investment for the previous financial year was around £1 billion. The key challenge for me and other colleagues in Government is to ensure that people who use drugs or are in recovery get access to the resources that exist.

**The Presiding Officer:** That concludes the ministerial statement.

## Moveable Transactions (Scotland) Bill: Stage 1

**The Presiding Officer (Alison Johnstone):** The next item of business is a stage 1 debate on motion S6M-07210, in the name of Tom Arthur, on the Moveable Transactions (Scotland) Bill.

14:51

**The Minister for Public Finance, Planning and Community Wealth (Tom Arthur):** I am delighted to open the stage 1 debate on the Moveable Transactions (Scotland) Bill.

I express my thanks to the members of the Delegated Powers and Law Reform Committee for their careful consideration of the bill and to the many stakeholders who have contributed to the committee's work. I especially express my gratitude to the Scottish Law Commission and, in particular, Professor George Gretton and Professor Andrew Steven. They led the commission's diligent and thorough review—which lasted some eight years—of the issues surrounding moveable transactions law in Scotland. The fact that the work took eight years is a reflection of the complexity of this niche and highly technical area of law.

The context of the commission's report was that there is significant support for reform and modernisation of Scottish moveable transactions law among the people who use it, as it is out of date and inadequate by international standards.

Moveable transactions law enables the use of assets to raise finance by selling debts or by granting security over moveable property. For example, a business may wish to acquire funding by transferring to a financial institution its claims to payment of its existing and future customer invoices. That would be done by means of an assignation—in practice, usually a sale—of the claim.

Scotland's current law on moveable transactions dates from 1862 and requires intimation to all debtors if a claim is assigned. That is cumbersome, time consuming and expensive. As a result, assignation of consumer debt is usually carried out in Scotland under English law or via other complex legal workarounds that do not require intimation to the debtor. The law in France, Germany, Australia, New Zealand, Canada and the United States also does not require intimation to the debtor.

The current Scottish requirement for intimation to the debtor also precludes the assignation of future claims, as a business will not know who its customers will be in six months' time. However, the bill will enable the assignation of invoices

already issued and those that are to be issued over a particular time period in order to raise finance. Such seed funding may be critical to the development and health of new businesses, in particular.

**Martin Whitfield (South Scotland) (Lab):** Does the minister have any concerns about the practice in Scotland whereby the payment of the debt continues to be made to the original creditor and then passed on to the assignee? Are there any concerns about that mode of business operation?

**Tom Arthur:** That is a long-standing issue, but one of the opportunities of the reform will be the provision of greater clarity through the statutory register. Under the bill, it will become possible for assignments of both current and future claims to be registered in a new register of assignments, which is to be maintained and operated by Registers of Scotland.

The system of invoice factoring works in practice on the basis that an invoice factoring company will normally give the entity that is assigning the debt 80 to 90 per cent of the money that is due. That will provide cash flow to that entity and will hopefully permit it to develop and expand. When the invoice factoring company has collected all the debt, it will pay the balance of the money that is due, less its fee. Clearly, in such cases, the party that has assigned the debt will not receive 100 per cent of its money, but it will receive most of it timeously without having to pursue it itself, and early payment may be crucial to its survival and success.

The registration of the assignment in a public register will permit searching to find out whether a last known holder of a claim to a debt has assigned it or still holds it. Debtors will not be expected to search the register, though, and there are protections for debtors who pay the wrong person in error.

The other main reform relates to the use of moveable assets as collateral for loans, which under the current law is difficult and expensive. The current law is predicated on the idea that possession of a moveable asset has to be handed over to a creditor if it is used as collateral, as in a pawn arrangement. Clearly, that will not work for businesses, as they need to retain assets such as vehicles, equipment and intellectual property in order to be able to function. Legal workarounds are used to circumvent that problem, but they are complex, expensive and again involve the use of English law. We understand that at least one major financial institution will not lend on plant and machinery in Scotland because of the state of the law on moveable transactions here.

Under the bill, businesses will be able use such assets as collateral to obtain loan finance without

giving up possession of them. That would be done by means of the new statutory pledge. The statutory pledge will be created by the registration of the document, which constitutes the pledge in a new register of statutory pledges, which will also be maintained and operated by Registers of Scotland. That will lead to greater and much easier access to finance for businesses in Scotland, thus benefiting the general economy.

The bill will not only modernise moveable transactions law in Scotland, but will actually leapfrog most comparator jurisdictions.

I am aware that the committee has heard evidence from Citizens Advice Scotland and money advice agencies, which have suggested that the bill should apply only to businesses and not to individual consumers. They have also suggested that, if the bill is to apply to individual consumers, the consumer protections in the bill should be strengthened. When the Economy, Energy and Fair Work Committee took evidence on the proposals in the previous parliamentary session, the vast majority of respondents indicated that they thought that the consumer protections in the bill were adequate.

We have always been clear that the main benefits of the reform of the law relating to moveable transactions in Scotland would be felt by businesses, since it would make it much easier for those businesses to raise finance to invest in their future development. We understand that comparator jurisdictions extend their moveable transactions law to individuals as well as to businesses. We do not, however, believe that the provisions of the bill would be utilised by individuals to any great extent. It was never the intention, as a matter of policy, that individuals would have been able to pledge ordinary household goods as collateral for a loan under a statutory pledge. It is also very unlikely that financial institutions would lend money using ordinary household goods as collateral, since such items are likely to depreciate in value very quickly, to the point where their value may not cover the amount loaned.

If individuals were unable to use ordinary household goods as collateral under a statutory pledge, the other kind of moveable property owned by most people that might be used in relation to statutory pledge, mainly for acquisition purposes, would be motor vehicles. We understand, however, from UK Finance, which incorporates the Asset Based Finance Association, that its members are unlikely to move from using hire purchase to statutory pledge as the legislative means to finance car acquisition. That is because, first, they are used to using hire purchase, since the Hire Purchase Act 1964 has been in force for nearly 60 years and, secondly,

their computer and other systems are set up for hire purchase.

In addition, and contrary to initial indications, it does not appear that high street banks have plans to introduce new borrowing arrangements based on the statutory pledge for individuals and would continue to use its existing consumer loan products. The application of the bill to individuals has been something to which the Government has given considerable thought. Although we have seen no hard and fast evidence that the provisions of the bill on statutory pledge, in particular, would be abused by predatory lenders, we do not believe that the use of the bill by individuals would be significant, and that does not justify the risk, however small, in view of the potential for distress. We therefore propose the removal of the application of the part 2 statutory pledge provisions of the bill to individuals, though not to sole traders, by stage 2 amendment.

Very careful consideration will have to be given to appropriate stage 2 amendments to ensure that we get the balance right in relation to sole traders. The Federation of Small Businesses has highlighted that sole traders and other smaller unincorporated businesses should be able to access finance by using the provisions of the bill even if its application to individuals is removed. We are therefore keen to ensure that sole trader and smaller unincorporated businesses should be able to benefit from the reforms in the same way as all other businesses in Scotland, and we will have this in mind when lodging stage 2 amendments. At some point in the future, consideration could be given to extending the application of moveable transactions law to individuals, with strengthened consumer protections, if a convincing argument could be made in support of such an extension.

Introducing the bill has been described as a win-win solution for Scotland. For the relatively low cost of the establishment of the two new registers, it will provide important modernised technical legal machinery through which finance secured over Scottish moveable assets can be made more readily available to businesses. If implemented, the bill will make various types of commercial transactions more efficient, less expensive and less complicated than they currently are, through the introduction of the two new registers. It will assist business in raising finance to enable them to invest and expand, and it will thus benefit the Scottish economy generally.

I move,

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

**The Presiding Officer:** I confirm that there is time in hand for interventions.

I call Stuart McMillan to speak on behalf of the Delegated Powers and Law Reform Committee.

15:01

**Stuart McMillan (Greenock and Inverclyde) (SNP):** I highlight that one of the Delegated Powers and Law Reform Committee's responsibilities is to scrutinise Scottish Law Commission bills. Such bills can often be perceived as being quite technical, and members might think that our scrutiny is consequentially quite dull and technical. However, the bills that previous committees have scrutinised, and the bill that is before us today—the Moveable Transactions (Scotland) Bill—are interesting and hugely important.

Without going into too much of the technical detail, I can say that the bill will reform two elements of our law on moveable property, which includes cars, machinery and whisky barrels, to give some interesting examples. It will reform the assignation of claims and the law of pledge.

Assignation of claims simply means the transfer of a claim from one person to another—usually the right to payment of a debt. A pledge is a type of security—usually for a loan—which is taken over moveable property and works in a similar way to a mortgage on a house. Under the current law, an assignation can be completed only by letting the person who owns the debt know about the assignation, in a process known as intimation. A pledge can be granted only by delivering the property that has been pledged to the person who has granted the loan.

As the minister touched on, the bill will change that position by creating two new registers: the register of assignations and the register of statutory pledges. The bill will enable the registers to be used to grant assignations of claims as an alternative to intimating the assignation to the debtor, and to grant statutory pledges over moveable property.

Among the business community there was almost universal support for the reforms proposed in the bill. The committee heard from witnesses that the current legal infrastructure

“is from the 19th century”

and that

“reform in this area is needed drastically and as soon as possible”—[*Official Report, Delegated Powers and Law Reform Committee*, 4 October 2022; c 3.]

Others noted that Scots law was behind the law in many other jurisdictions in this area, and that English law sometimes has to be used rather than Scots law due to the current barriers.

Last week, I attended a Confederation of British Industry event in the Parliament. One of the guests indicated to me that, if the bill passes through the Parliament and becomes law, the organisation that they work for will use it on day 1. That can be only a good thing for the Scottish economy, because it will keep money there.

The committee heard about the current requirements for intimation of assignations, which can be cumbersome and costly, and about the complex trust arrangements that are used to get around the current legal requirements. We also heard about difficulties being caused for businesses because of the requirement for physical possession of a pledged item. Witnesses told us that if the proposed legislation were to be implemented effectively it would provide significant benefit to the Scottish economy, allowing more finance to be provided to more Scottish businesses through a wider range of finance options.

The Federation of Small Businesses Scotland told the committee that in recent years the most common forms of finance that have been acquired by such businesses have been

“overdraft facilities, credit cards and asset finance”—  
[*Official Report, Delegated Powers and Law Reform Committee*, 25 October 2022; c 3.]

and that although the bill could be seen as being technical, it could have a significant impact on the financing options that would be available to the small business sector.

However, while there was support for the introduction of registration of statutory pledges among the business community, there were concerns about the impact of the reforms on individual consumers. I note the minister's comments on that in his opening speech. I am sure that my committee colleagues will welcome those comments.

**Martin Whitfield:** Did the committee have an opportunity to consider how individuals could be removed from the bill, given the position of sole traders and that of small partnerships, which are, in effect, individuals in law?

**Stuart McMillan:** That came up in evidence when the committee discussed the bill. It was clear that it would be complicated to manage. In the recommendation that we made in our stage 1 report we acknowledged that it would be difficult. The minister also acknowledged that in his earlier comments. As I am sure that the member will appreciate, any amendments that are lodged will be scrutinised in great depth by the committee.

Advice organisations were united in their call for consumers to be excluded from the reforms in the bill in relation to statutory pledges as the best way to protect consumer interests. I note the letter that

the minister sent to the committee on that. The committee highlighted the issue of consultation after the SLC had produced its bill, and further engagement with the consumer credit organisations. I will come on to that shortly. It is fair to say that the committee received conflicting evidence on the risks to consumers of the proposed reforms and the extent to which protections are adequate.

There were also conflicting views on the extent to which individual consumers granting a statutory pledge would be protected by the Consumer Credit Act 1974 and the current Financial Conduct Authority regulations. Ultimately, as we have already touched on, the committee recommended that individuals not acting in a business context should be excluded from that part of the bill.

The committee also recommended further changes to the bill to increase protection for consumers in the event that they are not excluded from the bill, including increasing the threshold for an asset that can be granted as a pledge from £1,000 and recommending that the bill should be amended to specify that essential household goods are excluded from items that can be pledged.

The committee also heard evidence about how the registers would operate in practice, including on the fees that would be charged for accessing them. One concern that was raised was that the registers might contain inaccurate information if they were not updated regularly. As a result, the committee recommended that the bill should be amended to require certain updates, such as assignation or the discharge of a pledge, to be made to the registers timeously or within a specific timeframe.

We noticed that a lot of detail about the operation of the registers would be contained in regulations and we stressed the importance of early sight of the draft regulations. As members will be aware, in relation to the bill, the Delegated Powers and Law Reform Committee has two functions: the first is to look at the policy, which is unusual for our committee; the second and more usual function is to look at regulations and secondary legislation.

Finally, I want to cover an element of the bill as it was originally drafted by the Scottish Law Commission, which does not appear in the bill that was considered by the committee. The bill does not include the assignation of claims over financial instruments such as shares and bonds. In the policy memorandum, the Scottish Government indicated its view that those arrangements were beyond the legislative competence of the Scottish Parliament. Instead, the Scottish Government has asked the UK Government to grant an order under section 104 of the Scotland Act 1998, which would

have the same effect as if the provisions had been included in the bill. It would thereby complete the full extent of the reforms recommended by the SLC.

Stakeholders stressed the importance of the reforms applying to shares and said that the requirement to take ownership of shares and the responsibilities that can come from that are major barriers to Scottish businesses using them as security. There were calls for the financial instrument reforms to be progressed with great urgency. The committee is aware that there has been regular correspondence between the UK and Scottish Governments to try to resolve the matter.

We know that the Scottish and UK Governments are having those discussions, but we urge them to resolve the question whether a section 104 order is required. If it is concluded by both Governments that such an order is required, the committee recommends that the Scottish Government pursue that with the UK Government as a priority.

Before I close, I thank all those who contributed to the committee's scrutiny of the bill, whether in writing or by appearing before the committee during one of our evidence sessions. As members know, a committee's scrutiny is only as good as the evidence that it receives, so we are genuinely very grateful for the time and energy that has been given to help the committee in its work.

I also thank fellow committee members for their scrutiny, and I thank our excellent clerking and legal teams for their assistance. I thank the minister and his officials for the evidence that they have provided to the committee, and I thank the Scottish Law Commission for proposing the bill.

The committee noted that

"significant concerns from consumer and money advice organisations have only been identified at the stage of parliamentary scrutiny."

However, the minister's letter seems to indicate something different. We therefore recommend that

"where the Scottish Government is considering introducing a Bill to give effect to an SLC report and significant time has passed since the SLC's original consultation on its proposals, further consultation should be undertaken."

That discussion between the Scottish Government and consumer organisations will very much continue beyond today.

As a committee, we are clear that the bill proposes important reforms that will benefit businesses across Scotland, and that those reforms are likely to have a beneficial impact on access to credit and finance, but nonetheless, there are important issues to consider in relation to the impact of the reforms on individual consumers and how they can best be protected. We look

forward to working with the Scottish Government on those issues in advance of stage 2.

I commend the stage 1 report to members.

**The Deputy Presiding Officer (Liam McArthur):** I call Jeremy Balfour, who has a generous eight minutes.

15:11

**Jeremy Balfour (Lothian) (Con):** I will do my best to keep to eight minutes, Presiding Officer.

First, like others, I thank the witnesses who came along and gave evidence. As an undergraduate student 30 years ago, I listened to Professor Gretton; I think that I understood slightly more 30 years on, but perhaps not as much as I should have. I thank him and all our other witnesses, and I thank the clerks for putting together the report so well.

It is fair to say that there is consensus among committee members on the bill, and we look forward to its speedy progress at stages 2 and 3. It will bring major reform to allow partnerships, sole traders and companies to be able to borrow money more quickly and more simply.

I will follow up on two comments that were made by the convener. There has been quite a delay between the Scottish Law Commission drafting the bill and the bill's introduction to Parliament for its stage 1 proceedings. I put no fault at the minister's door, since he was not elected when the SLC's report was finished.

The Scottish Law Commission does valuable work, and the Parliament needs to find time for its bills. As the convener said, if there is such a delay, we need to look at whether we need to do further consultation with interested parties. I read with interest the minister's letter responding to the committee's stage 1 report. We need to follow up on that point to make sure that everybody feels part of the process and has their say.

As the minister said in his opening speech, this is a technical bill. I am sure that the amendments that are lodged at stages 2 and 3 will deal with some of the areas that need to be tidied up. Other members will comment on those, but I will limit my comments to three areas that the Parliament will need to consider at stages 2 and 3.

The minister has dealt with the first, as has the convener, which is whether the bill should apply to individuals. I welcome the minister's comments in his opening speech and in his letter. He is absolutely right that it will take careful drafting at stage 2 to make sure that we do not exclude partnerships and, in particular, sole traders.

There are better legal minds than mine in the chamber today, but I think that there is no clear

definition of a sole trader, as opposed to an individual. We all understand the difference in practice, but we have to ensure that the drafting is done in a way that does not exclude individuals but also protects them. As the minister said, the bill was never intended to cover individuals in that way. I look forward to the Government lodging amendments so that the committee can scrutinise that issue.

**Martin Whitfield:** Was Jeremy Balfour taken by the suggestion that there should be a minimum limit of value, or perhaps an indication from an individual about whether a business, as opposed to a non-business, was involved, which would cause that demarcation and thus exclude the situation from the bill's provisions?

**Jeremy Balfour:** We can probably proceed in several ways. A belt-and-braces approach would ensure that we do not include or exclude people. I am sympathetic, but if the provisions stay in, the amount could be increased to £3,000 or a substantially higher figure. The idea of a self-declaration form is worth exploring. Martin Whitfield will be aware that some small businesses use personal bank accounts, which can be confusing. What is personal and what is business in a personal bank account? Such areas will have to be worked through at stages 2 and 3. However, I am grateful that the minister will lodge amendments, and I think that he will find cross-party support for them.

Perhaps the elephant in the room is financial instruments, such as stocks and shares. There will be sole traders and partnerships that will want to use the new legislation, but we are mostly talking about fairly large companies doing fairly large financial deals using it. If we are going to exclude such instruments from the bill and look to Westminster, I would like to know a bit more about why the Government has come to that view. There are different legal views around. It is clear that the Scottish Law Commission took a view that was different from that of the Government, and witnesses who gave evidence to us took different views as well. I understand the comment that the minister will make about the Government not sharing legal advice, and I respect it. However, I wonder whether he can give a wee bit more information—maybe not today but in writing to the committee—about his thinking. I think that all of us would agree that the quickest way to proceed would be to deal with matters in the bill.

**Tom Arthur:** Rather than addressing that point in summing up, I commend Jeremy Balfour's enthusiasm for testing the limits of the devolution settlement. Let us hear more of that.

On the substantive point, I will reflect on whether I can provide any more information. However, Jeremy Balfour has recognised the

restrictions that the ministerial code places on me with regard to what I can share.

**Jeremy Balfour:** I look forward to the minister reflecting on that as he eats his turkey on Christmas day.

The final issue that I want to touch on—electronic signatures—shows how technical the bill is and maybe how nervous I am. This may seem to be a legal point, but if we are going to try to encourage small businesses and partnerships to use the legislation, we need to look again at how people sign off documents. I am grateful to the minister for addressing that in his letter to the committee, but I am not sure that I am absolutely convinced by his arguments. Ministers can look at that issue at another time. We need to get the bill as right as possible at stages 2 and 3, so I will perhaps come back to the issue and explore it further as the bill goes through the parliamentary procedure.

In conclusion, I thank the committee and I thank the minister for his engagement so far. If we can keep working together, we can get a bill that will allow companies, individuals and partnerships to be able to borrow more quickly and easily. As someone has already said, that will be a win-win for Scotland.

**The Deputy Presiding Officer:** I call Paul Sweeney, who has a generous seven minutes.

15:19

**Paul Sweeney (Glasgow) (Lab):** I will support the bill at stage 1; Labour supports the bill because it agrees with the general principles of this innovation. I thank the Scottish Law Commission for its work in the public interest to develop proposals to deal with a clear deficiency in public policy in Scotland, as colleagues have illustrated in the debate. I thank my colleagues on the Delegated Powers and Law Reform Committee for the work that they have done, along with me, to look at the bill and identify concerns that had not previously been identified. That demonstrates the earnest work of the Parliament to constructively and collegiately address drafting deficiencies and ensure that we have the best possible legislation on the statute book.

As the minister said, the concern that came out loud and clear from all the evidence that the committee heard was about the risk to consumers, which would be an unintended consequence. The bill was developed and drafted with businesses in mind; it was intended to address a competitive disadvantage to doing business in Scotland because of concerns about the ability to use assets that were held in stock, which is a form of waste for business.

The bill will allow businesses to raise liquidity against such assets. In Scotland, the most obvious example of them is barrels of maturing whisky—they represent tens of millions of pounds of assets that cannot be used for the benefit of further investment and for the development of industrial growth. In that respect, the bill will create a great advantage for the Scottish economy and will further the development of industry in our country.

I welcome the minister's indication that, to address the key concerns about consumers that witnesses highlighted, the Government will take action at stage 2 to carve out consumers from the bill. In committee and as a party, Labour stood ready to lodge amendments if the Government did not do that, but the minister's comments have given comfort.

There is a worry about how the bill was developed, which colleagues have referred to. It has taken the best part of a decade to develop the bill from the initial process that started with the Scottish Law Commission to the bill's arrival in the Parliament for stage 1. We all need to reflect on the efficiency of the development of Scottish Law Commission bills and on their potential for obsolescence.

The committee happened upon the bill's major issues for consumers only quite late in the process. Citizens Advice Scotland, StepChange, Money Advice Scotland and Christians Against Poverty highlighted the distinct lack of consultation of consumer and money advice stakeholders since the process for developing the bill started in 2010. In the spirit of continuous improvement, we need to reflect on that.

**Martin Whitfield:** Paul Sweeney will be aware that standing orders provide a special vehicle for bringing Scottish Law Commission bills into the Parliament. Might it be necessary to look at that and see what delayed the introduction of this bill, which dates back to reports from 2017?

**Paul Sweeney:** We could work collaboratively with my colleague Martin Whitfield's Standards, Procedures and Public Appointments Committee to identify opportunities for improving the Parliament's processes and working more collaboratively and constructively with the Scottish Law Commission to improve the efficiency of the legislative process. I know that there is a reservoir of reports from the commission that are yet to reach the Parliament, which does not serve the public interest as well as it could be served. We could increase the parliamentary time that is available for such bills and we could look at ways of expediting the process. We must continually test and adjust the pool of people and stakeholders that we engage with, to ensure that we do not end up, late in the day, having to retrofit bills with quite substantial provisions, which might

be risky for the wider public. I think that it is important to contribute that to today's debate.

I have concerns about sole traders, which the minister talked about. There was definitely a big risk that harm to consumers would occur as an unintended consequence, but the committee wrestled with the dilemma of how to identify the threshold between individual actors and corporate actors, particularly given the gig economy and increasing changes to our economic structures. Indeed, that point was highlighted by Alan McIntosh in his evidence. I pay tribute in particular to the contributions from Alan McIntosh, Mike Dailly and Myles Fitt in highlighting those concerns to the committee.

In relation to business debts, they have expressed continued concerns that the bill would allow statutory pledges to be called up in relation to self-employed consumers without a court order being obtained. That is a major concern, and we look to the Government to push further to address it through amendments, because it could in practice introduce all sorts of potentially perverse behaviours that could be deeply damaging. Some of the examples that were used, such as statutory pledges over farming livestock, did not seem particularly convincing. Even in that case, there are animal welfare implications and the supervision of the courts would be prudent to say the least.

There is also concern that courts using unconventional and informal remedies to take possession of the movable property of a debtor could potentially result in someone facing wrongful loss of their property and, in a worst-case scenario, public order disturbances and criminal offences. In that context, the Government should, through amendments, go further and consider introducing court orders in relation to self-employed traders. Not to do so would be a mistake, and it would potentially introduce further risks for many vulnerable consumers who are forced to become self-employed; I am thinking of the gig economy or potential issues for taxi drivers or people working in the hospitality sector. The Government needs to investigate and consult further on those areas.

I highlight some particular provisions that the committee has recommended, which may be of assistance. With consumers in mind, the committee proposed that the minimum threshold for an asset should be increased. The committee recommended that the amount should be no lower than £3,000 and should be tied to an annual inflator associated with the retail prices index. That may well be a prudent measure to introduce in relation to businesses as well, because it would help to shelter sole traders and people operating

as a start-up, who might be using the family car for business purposes as well as for personal use.

With regard to Jeremy Balfour's point, there might also be a mechanism whereby people self-declare, in the same way as they do for car insurance, whether they are using an asset for personal or business use or a combination thereof. That might help to inform a more intelligent application of the provision for raising a statutory pledge.

That is where the key opportunities lie to further improve the bill. Labour stands ready to assist the Government in making the legislative mechanism as good as possible, so that it can achieve all the required efficiencies to ensure that the competitive position of our economy is enhanced, while also ensuring that there are no unintended consequences that could visit pretty damaging harm on people in Scotland. With that, we support the bill and look forward to considering further amendments and working constructively with the committee.

15:28

**Bill Kidd (Glasgow Anniesland) (SNP):** I thank the Delegated Powers and Law Reform Committee clerking team and the legal support group, which are very much behind any success that the committee might have, and I thank my MSP committee colleagues. I also thank those working at the Scottish Law Commission for their extensive efforts in laying the groundwork for the bill in the SLC's 2017 "Report on Moveable Transactions".

While I am thanking people, I want to ensure that everyone remembers the committee clerks—I have already said this, but I want to emphasise it—who supported the examination and scrutiny of the bill at stage 1. That cumulative work has taken us to a place where we can now bring forward substantial changes to existing legislation.

Those changes will enable us to modernise how businesses, and individuals in a business context, can raise funds without facing the arduous legal complexities and barriers that are currently in place. The law firm Brodies LLP has pointed out that the bill is the most major piece of legislative reform in more than 50 years for Scottish businesses seeking to raise finance.

Ultimately, the reason why we are discussing the topic today is because we want businesses in Scotland to prosper rather than being held back by laws that do not fit modern business and finance practices. It is common for well-established businesses to seek loans to promote growth, and across many different legal systems those loans can be secured against property that is owned by

businesses or sole traders, which is the case in Scotland.

The Delegated Powers and Law Reform Committee has recommended that the bill's remit be kept to businesses and individuals acting in a business context, such as sole traders and start-ups. I appreciate that careful consideration needs to be given to ensuring that, by excluding individuals and customers from the scope of the bill, we do not exclude sole traders or early start-up businesses.

In the context of the bill, we are focusing on updating legislation on how funds can be raised and secured for businesses against their moveable property. We are, of course, not talking about property such as buildings or land; moveable property covers things such as machinery in a workshop, a fleet of vehicles or even intellectual property. Through the DPLR Committee's scrutiny of the bill, we have seen that the current law determining how businesses can raise funds has, unfortunately, resulted in unnecessary difficulties for Scottish businesses.

It is important to highlight that the current law surrounding the raising of funds secured against moveable property dates back to the 19th century, as has been mentioned, so it is easy to see how, as society and business practices have evolved, the laws in place have become increasingly difficult in practice and inadequate for the 21st century. Although the bill is, I admit, complex in nature, it is incredibly important in creating opportunities for Scottish businesses to grow and prosper, which will, in turn, strengthen the Scottish economy.

The bill seeks to remove the unintended consequences of the current law, which disadvantages small and medium-sized Scottish businesses that seek to raise funds through securing loans against moveable property such as, as I said, a fleet of vehicles or specialist machinery, or even against due credit or future income, such as due or future invoices.

Currently, if a small business secures a loan against its incoming or future invoices, the loan cannot be realised, or legally effective, until each customer or debtor of the given business is notified of the details of the loan agreement. That means that the customer receives financial information about the company to which they owe payment for an invoice, despite their not being a stakeholder or having the expected position to legitimise such insight into a company's financial situation. That is just one example of how securing loans against moveable property such as machinery is currently an unappealing method of raising finances for Scottish businesses.

The Scottish Law Commission suggests that uncertainty about the current law means that financiers may even charge Scottish businesses more for services in establishing moveable transaction agreements than they would charge an English business.

Another difficulty in raising finance that the bill seeks to address is that, in most cases, moveable property needs to be physically moved to the creditor for the duration of the loan agreement. That is, of course, unworkable for many businesses that rely on those assets to generate income in order to grow their business and pay back loan agreements, so raising finance secured on a business's moveable property becomes significantly less attractive when they have to transfer the property to the creditor for the duration of the agreement. Businesses in other countries do not face that requirement, and it has been argued that this 19th century law consequently puts Scottish businesses at a disadvantage.

Through the creation of a new statutory pledge and a register of pledges, the bill will remove those disadvantages. Businesses will have more options for raising finances without losing the means to generate income from their loan-secured moveable property. The committee has asked that the bill be amended to require that updates of assignation or discharges of a pledge be made timeously to the registers.

Loans that are secured against moveable goods are an important finance-raising tool for many small to medium-sized enterprises. Small to medium-sized businesses account for 99.4 per cent of all private sector businesses in Scotland, and they accounted for 40.2 per cent of private sector turnover in March 2022. Therefore, it is important that we modernise moveable transactions legislation so that businesses in Scotland have the same opportunities as businesses have elsewhere to pursue sustainable growth. The bill will, I believe, result in a stronger Scottish economy and improved prospects for new and existing businesses in Scotland.

15:34

**Katy Clark (West Scotland) (Lab):** It is a pleasure to contribute to the debate, and to follow four members of the committee that scrutinised the bill in doing so. I congratulate the committee on its work, because it seems from the debate so far and from the Government's response that the committee has already had a considerable impact on the bill. It is vital that we ensure that the scrutiny continues because, as has been said, the bill deals with complex areas of law, and legislation can often be drafted in ways that have unintended consequences. I therefore very much hope that we will ensure that there is effective

consultation and that the Parliament carries out its scrutiny function.

It is clear from the speeches so far that there is a willingness to look at the issues on a cross-party basis. As has been said, many of the issues are technical. However, it is the Parliament's wish that there are effective ways to ensure that enforcement happens when there are debts but that that is done in a way that protects individuals and consumers. To do that, we need to ensure that the bill is drafted appropriately. I therefore strongly welcome the fact that the Government is now considering that issue again.

The committee made clear that it believes that individuals who are

"not acting in a business context should be excluded"

from the bill. From reading the committee's report, it seems that it heard powerful evidence on that. Mike Dailly from the Govan Law Centre said:

"I would go so far as to say that if the bill, as passed, included consumers in the way that is proposed, there would not only be legal problems but a question about morality would have to be asked."—[*Official Report, Delegated Powers and Law Reform Committee*, 4 October 2022; c 20.]

That reinforces the point that it is essential that we get the detail of the bill correct.

Of course, warrant sales were a feature of Scots law for many decades. I suspect that many members who are in the chamber were at demonstrations and other events on that issue and were involved in the discussions that led to the abolishing of the inhumane system of poindings and sale of debtors' possessions as a routine part of the legal system in Scotland.

My father told me about a book that he was reading about Skye, where his family came from. The book mentioned a baby being poinded, and my granny said, "That was our postman." There were exceptions to the use of warrant sales to do with things such as tools of trade and so on, but we know from our history that ordinary working people were often put in horrific situations by diligence and the sale of goods under the legislation that we had in this country. I therefore find it surprising that there has been so little public debate about the bill, albeit that I accept that the protections in the bill as drafted are more significant than those that existed before the abolition of warrant sales.

In the bill as presented to us, there is a £1,000 value threshold for assets of individuals or consumers, but I understand that numerous representations were made to the committee that the figure should be increased. The committee, after hearing evidence, concluded that, ideally, individuals who are not acting in a business context would be completely excluded from the bill

but, if that does not happen, the threshold should be raised to not less than £3,000. I hope that, as we go forward, those who are working on amendments to the bill take from today's debate that we want the full exclusion of individuals and consumers, unless they are genuinely acting for business purposes.

I hope that the debate and the comments from my colleague Martin Whitfield and others on sole traders and other people who are acting in a business capacity, are listened to carefully. I urge the Government not to produce proposals in haste, because the consequences for individuals of getting the law in this area wrong are severe.

It was the heat of the poll tax campaign that brought to public attention a practice that had existed in Scotland literally for centuries, and it was the use of poll tax debt and its recovery by warrant sales that brought it to the fore in Scottish political debate. Because it is the poor who are subject to those forms of action and their voices are often not heard in the debate, I hope that, as we go forward, the scrutiny that takes place and the consultation that we need will not just involve the business community and the legal profession but will fully include advice agencies, consumer rights organisations and people who are undertaking advice work in working-class and deprived communities for the people who are likely to bear the brunt of this legislation.

15:40

**Michelle Thomson (Falkirk East) (SNP):** I am pleased to speak in support of the principles of the Moveable Transactions (Scotland) Bill. It is fair to concede that the bill does not have the most toe tapping of titles, but it is an important bill, nevertheless, for Scotland's small and medium-sized enterprises. My support reflects my memberships of the Finance and Public Administration Committee and the Economy and Fair Work Committee, and my previous life experience of running SMEs in various sectors. However, I bow to the expertise on show today from all the members of the DPLR Committee.

I believe that the bill is an important addition to secured transactions legislation. Stage 1 satisfies in some part the call of Professor Orkun Akseli for a

"modern secured transactions law"

that meets the requirement to be

"simple, transparent, efficient, flexible, and provide freedom to parties in creating their transaction."

I hope that the legislation contributes towards a reduction in the cost of credit for many thousands of SMEs across Scotland, and I am not alone in

my hopes. Professor Louise Gullifer stated in her submission to the consultation:

"There is a great deal of research showing that a functional and friction-free secured transactions law improves access to finance, both in terms of making finance available to those who could not previously access it, and also reducing the cost of finance."

At present, around the world and not only in Scotland, unincorporated businesses are often adversely affected by the inefficiency of secured transactions laws. I believe that the bill starts the process of correcting some of the current weaknesses, although I respect the wisdom of the DPLR Committee members regarding the definition of sole traders.

As I looked more closely at some elements of the bill, questions—I would not say concerns—arose in my mind. First, the proposal to operate a dual system for assignment of claims means that it will be possible to assign claims either by intimation to the debtor or by registration in the new register of assignments. Given that two routes are possible, it is inevitable that the register will not be comprehensive, but we do not yet know to what extent. At a commonsense level, it seems to me that operating a dual system might create unintended consequences. Dual systems are more complex, and we know from other types of legislation that complexity often goes hand in hand with loopholes. I would be interested to hear from the minister how far scenario planning or other forms of review have been undertaken thus far to assess the potential for unintended consequences.

As I understand it, where a transfer of receivables is made effective against third parties through registration, protections will need to be put in place for the debtor who, if not notified of the transfer, will not know who to pay or may completely innocently act incorrectly in some manner. I know that the minister is aware of that, but is he able to offer reassurance that the bill contains appropriate protections for the debtor?

I have one further area where I seek comment from the minister. As is probably known, I have raised on a number of occasions the on-going problems that exist with Scottish limited partnerships. There seem to be more than enough loopholes in existing law that enable SLPs to operate with impunity, should their owners wish to engage in criminal practices.

The issue with SLPs is that they are able to avoid much of the scrutiny of regular small limited companies, yet they have their own legal personality. Thousands of SLPs are registered that have no identified owners and make no financial filings, and are therefore completely opaque. SLP governance resides with Westminster which, thus far, has shown little

regard to tightening the rules. I am uncertain whether the bill as it stands is sufficiently watertight for that type of partnership. Would the minister be willing to meet me and discuss the situation, either to set my mind at rest or to consider an amendment at a later stage of the legislative process?

The questions that I have raised do not detract from the fact that this is a well-intentioned and important bill that proposes much-needed reforms. My hope is that it will enable Scottish SMEs to use their assets to raise finance by selling debts that are owed to them or by granting security over moveable property. Fundamentally, businesses need secure and critical cash flow—never more so than at the present time—and the bill will limit their need to pursue much more expensive routes to finance, as well as limiting the number of businesses that find that they have no viable alternative route. I am therefore fully supportive of the proposals.

15:45

**Maggie Chapman (North East Scotland) (Green):** I am pleased to speak on behalf of the Scottish Greens in this stage 1 debate. We will support the principles of the bill at decision time today.

I thank the Delegated Powers and Law Reform Committee for its work on the bill over the past few months and for producing its detailed report earlier this month. As someone who has not been involved in the development or formal scrutiny of the bill, I have found the report useful in better understanding the different elements that we are talking about in the debate. I also thank Citizens Advice Scotland, StepChange Debt Charity and other consumer and money advice groups that have sent me information or had conversations with me about the bill.

I sometimes find it quite extraordinary that, in this country, we still rely on laws that are older than many other countries in the world. I thank the Scottish Law Commission for its considerable work over the past decade to update our legislation on this subject.

As other members have already said, the bill seeks to modernise our laws in relation to transactions concerning corporeal and incorporeal moveable property. Put simply, it will make it easier for businesses to raise finance using their moveable property, such as vehicles, equipment, intellectual property and future invoices.

The process of assignation could release funds that are vital to enable businesses to smooth out any cash flow issues and keep operating. It could be particularly beneficial for small to medium businesses and microbusinesses, which might be

rich in incorporeal assets such as intellectual property but poor in other assets. Given Scotland's IP-rich research and development and innovation spaces, that could be transformational. As we seek to support resilient local and regional economies with diverse and sustainable sectors, I am sure that the legislation will be instrumental and will provide significant benefit to the Scottish economy as a whole. I am interested in exploring what options might be available to ensure that the legislation can enable prioritised finance for SMEs; however, that is for later discussions.

I will follow with interest the on-going discussions about how we will be able to distinguish between sole traders and individuals and on the points that have been made about the provisions on assignation of claims over financial instruments.

Another area that I would like to address is the minister's commitment to removing consumers, in general, and individuals from the bill. I thank the minister for taking seriously the concerns that have been expressed by Citizens Advice Scotland and other money advice bodies and for listening to many members in the chamber who have urged him to act on those concerns. The potential for harm to be done to consumers might be very small, but the negative impact on people's lives could be devastating.

**Martin Whitfield:** The Government has suggested that there is very little evidence that the provisions of the bill will be used for that purpose. However, is it not the reality that there are people out there who will seek to exploit any provision to lend money to people who are in challenging circumstances for its repayment? The bill could potentially have been an incredibly damaging vehicle for certain elements of our community who could have been exposed to that.

**Maggie Chapman:** I agree. Even if the number of people who might be affected is smaller than we might think—even if it would be only one or two people, although they might suffer devastating consequences—it is worth removing individuals from the bill for that reason. That listening is an excellent example of both the parliamentary scrutiny process and the open dialogue that the Greens have with the Scottish Government. Both processes are working well to make our legislation better.

That listening also points to the need to review, as the DPLR Committee has suggested, how we ensure that our consultation and other engagement processes are up to date. It is clear that much has changed since the process of developing the bill began, more than a decade ago. We must ensure that other legislation that—for good reason—takes considerable time to develop and draft before the parliamentary

scrutiny process begins does not encounter the issues that this bill has encountered.

I appreciate that there is still detailed and technical work to be done—particularly, as we have heard, with reference to the drafting of amendments that will remove individuals from the bill while still enabling sole traders to raise the finance they might need to sustain and improve their businesses. I thank those tasked with that important work and look forward to following their progress.

15:50

**Jenni Minto (Argyll and Bute) (SNP):** I thank those who gave evidence to the DPLR Committee and the clerks who prepared the stage 1 report.

As a DPLR Committee substitute, I had the pleasure of attending the committee's first evidence session and hearing from the Scottish Law Commission. My contribution will focus on that evidence. I admit that I was transported back to studying business law as a first-year accountancy student at the University of Aberdeen, although my only memory of the Sale of Goods Act 1893 is of the Paisley snail case, or *Donoghue v Stevenson*.

The Scottish Law Commission considers Scots Law to be “outdated”, “cumbersome” and in need of reform to bring it up to international standards on moveable transactions. The current legislation makes some transactions difficult or impossible to execute in Scotland, resulting in businesses having to use complicated workarounds that take longer and are more expensive.

As we have heard, the bill proposes modernising the law on borrowing against moveable and intellectual property and creating an easier way for businesses to sell unpaid invoices to banks or other financial organisations. If the bill is not progressed, there is a distinct possibility that Scotland will fall further behind international norms because small businesses and companies will be unable to easily access finance.

Professor Andrew Steven of the Scottish Law Commission said:

“The bill will make a difference in two areas: assignation and security over moveable property. The last law reform in statute on assignation was in 1862 ... on security, or moveable property more widely, the bill would be the biggest reform since the Sale of Goods Act 1893.”— [*Official Report*, 27 September 2022; c 5.]

In September 1893, Beatrix Potter was in Dunkeld, where she penned the first draft of “The Tale of Peter Rabbit”. I am sure that many in the chamber know and love the story of Peter, a mischievous rabbit who disobeyed his mother, ate too many vegetables in Mr McGregor's garden and had to

squeeze under a gate to escape, losing his blue jacket and shoes in the process.

Apart from its being written in the same year as the legislation that the Moveable Transactions (Scotland) Bill proposes to reform, why am I mentioning “The Tale of Peter Rabbit”? Members might not know that Beatrix Potter's book was turned down by many publishers: some did not like the illustrations, some felt it too long, others found it too short. She decided to publish the book herself, and, on 16 December 1901, the first 250 privately printed copies of “The Tale of Peter Rabbit” were ready for distribution to family and friends.

Beatrix Potter was lucky to have the assets to be able to fund the publication herself, but many women who have fantastic ideas in Scotland now are unable to get the necessary finance because of the constraints of the cumbersome 1893 legislation. In 2019, more than three fifths of new businesses were started by men, and therefore less than two fifths were started by women. It is often the case that a woman seeking business start-up finance does not have the heritable property, land or buildings needed as security but has a very good business idea or creative project. The ability to raise finance over any moveable property that she has, such as her tools, a finished artwork or—like Beatrix Potter—her intellectual property might solve the problem. Items of value could form the security for the loan. As Lady Paton, chair of the Scottish Law Commission, said in evidence,

“This new statutory pledge would solve her problem and more women would be able to access finance”.— [*Official Report, Delegated Powers and Law Reform Committee*, 27 September 2022; c 7.]

There is valuable international evidence that modern moveable transactions law helps women to enter business. The 2019 World Bank report “Secured Transactions, Collateral Registries and Movable Asset-Based Financing” contains a whole section on gender finance. It gives examples of women entrepreneurs such as Constance Swaniker, in Ghana, who is an artist and founder of a small business that designs furniture and home accessories. She could not move forward until she was able to obtain a loan through moveable-asset-based financing. The loan has allowed Constance to expand her business and she has hired 30 more employees. I would love to see something like that happen in Scotland.

Another important occurrence in 1893, which is the year of the legislation that the bill proposes to modernise, was the registering of Drambuie as the trademark for a whisky-based liqueur by James Ross of Broadford, in Skye. I apologise if I insult anyone with my next sentence, but I am sure that members will understand why I say it. Although it

is not produced in my constituency of Argyll and Bute, where some argue that the best uisge beatha is distilled, Drambuie remains a hugely important Scottish export. The maturing of whisky in bonded warehouses is another example of an area where the bill's proposed reforms on the delivery of possessory pledges could have benefits, as Paul Sweeney highlighted.

Professor Steven noted in his evidence that

"it is not currently clear under Scottish law that possessory pledge can be done by notifying to a custodian."

The bill will provide the necessary clarification and will perhaps help our whisky industry. He added:

"The statutory pledge lets one go a step further and grant security of the whisky in the company's own warehouse rather than in the independent third-party warehouse. That is a definite step forward".—[*Official Report, Delegated Powers and Law Reform Committee, 27 September 2022; c 11, 12.*]

Greater access to business finance will support innovation and productivity in line with our national strategy for economic transformation. That is a route to a strong economy with good, secure and well-paid jobs and growing businesses, which will maximise Scotland's strengths and natural assets and will increase productivity and international competitiveness. Scotland must continue to be a nation of entrepreneurs and innovators, embracing the opportunities of new technology, boosting productivity and focusing resources on innovations that will improve our economy and our society.

Deputy Presiding Officer, I will conclude. I hope that my voice does not give up on me. The bill will make various types of commercial transactions more efficient and less expensive. Businesses will be able to take full advantage of their assets in raising finance instead of relying on riskier and more expensive types of borrowing. That greater access to business finance will support innovation in line with our national strategy for economic transformation.

**The Deputy Presiding Officer:** Thank you, Ms Minto, and congratulations on managing to insert a literary reference into this afternoon's debate.

15:58

**Jackie Dunbar (Aberdeen Donside) (SNP):** I am not sure how I am going to follow Peter Rabbit; I will not even try to.

I thank the Delegated Powers and Law Reform Committee for all the work that it has undertaken to get us to where we are today. I will not pretend to be an expert on accountancy, because I only ever got to O grade, but I did pass my O grade in accountancy.

I am delighted to be able to take part in today's stage 1 debate on the Moveable Transactions

(Scotland) Bill. At its core, it is a simple bill. It seeks to simplify the law to allow business to use moveable property—as folk have said, that is property other than land and buildings—to access finance for business investment. The bill will support smaller businesses to raise finance, helping them to maintain income and address rising business costs.

Scottish moveable transactions law is widely considered to be out of date, inflexible and inadequate. Scots law on moveable transactions is a long way behind international standards, which makes some transactions difficult, or even gey near impossible, to execute. In turn, that necessitates the use of cumbersome, complicated and therefore expensive workarounds that take longer and are more expensive for companies in Scotland.

If the bill is not progressed, Scotland will fall even further behind international standards, and individuals and companies will be unable to avail themselves of the means of accessing finance more easily that is proposed in the bill.

Competing jurisdictions—in particular, in England and Wales—already have moveable transactions laws that are more commercially friendly than those in Scotland, including, in particular, the Scots law precedent. There is significant support for the reform and modernisation of Scottish moveable transactions law among those who use it—in particular, the Scottish Chambers of Commerce, FSB Scotland and CBI Scotland, which have already added their support for the bill.

The benefits of the bill will be wide ranging. It will incentivise entrepreneurship and support lifelong skills development; remove barriers to participation in the labour market, so that everyone is enabled and empowered to participate in our economic success; embrace the opportunities of new technology, boosting productivity and focusing resources on innovations that have made and will make a difference to our economy and our society; and bolster economic investment in Scotland.

Although it is important to get the bill right for businesses, we must also ensure that consumers are adequately protected as the bill proceeds. I am aware that the minister recently met Citizens Advice Scotland and some of the debt advice agencies, and that he listened carefully to what they had to say about the application of the bill to consumers. That followed the raising of concerns by CAS and others about whether the bill should apply to individual consumers, and about the threshold for the granting of a statutory pledge. I welcome the fact that the minister has committed to raising from £1,000 the monetary threshold under which it will not be possible to grant a

statutory pledge—although I heard Paul Sweeney say that the committee has recommended a figure of £3,000.

**Paul Sweeney:** Will the member take an intervention?

**Jackie Dunbar:** I will, but I am no expert, so I do not know whether I will be able to answer it.

**Paul Sweeney:** I thank Jackie Dunbar for her interesting speech. I clarify that the committee has recommended a minimum of £3,000, but the figure could potentially be up to £5,000, based on the evidence that was heard. There is flexibility there, and I look forward to the Government lodging an amendment; if it does not do so, perhaps the committee will lodge an amendment at stage 2. We will see what happens.

**Jackie Dunbar:** I was not aware of that, so I thank Paul Sweeney for his intervention.

I also welcome the commitment that a statutory pledge should not be possible in the instance of ordinary household goods. However, I ask the minister to clarify how that commitment will be incorporated into the bill at stage 2. I did not quite hear whether he covered that in his opening speech; I apologise if I missed it.

**Tom Arthur:** At stage 2, we propose to remove individuals from the scope of the statutory pledge, with the exception of those who are acting in the capacity of a sole trader. As has been said, careful consideration will have to be given to the drafting of the definition of a sole trader. I am happy to engage on that with the member, the committee and members more widely, ahead of lodging those amendments.

**Jackie Dunbar:** I thank the minister for that clarification.

If the law on moveable transactions—the assignation of debt and security over corporeal and incorporeal moveable property—is not reformed, individuals and businesses will continue to operate at a disadvantage in Scotland. As a result, businesses and individuals in Scotland would continue to be restricted in their ability to raise finance through the use of their moveable assets and debts.

The Federation of Small Businesses has indicated that, each year, 3,500 small businesses in Scotland fold because their invoices remain unpaid. The reform of the law of assignation of debt in Scotland—in the form of the bill—will permit a business, by means of an assignation, to more easily transfer to a bank or other financial institution its unpaid customer invoices, and thus obtain immediate finance.

If no action is taken, the assignation of debt in Scotland will continue to be governed by

legislation that dates from 1862, which makes the process cumbersome and expensive and, in turn, makes it impossible to assign future debt. If the bill is not passed, it would remain the case that, if a business wished to assign its unpaid invoices to a financial institution in order to raise finance, a written intimation—notification—of the assignation would have to be provided to every invoiced customer. That is cumbersome, expensive and often impractical, since there may be numerous debtors. In addition, it cannot be done in respect of future claims, such as invoices that will be due from existing customers in the future, where the debtor cannot yet be identified.

The effect is that some Scottish businesses elect to enter into contracts that are governed by English law to avoid the need for intimation, which means that invoice financiers can charge more for their services in Scotland than they might in England.

As has been demonstrated, the bill is essential for business in Scotland to ensure that we are key international players and to attract business and investment, and I look forward to it moving forward.

16:05

**Martin Whitfield (South Scotland) (Lab):** It is a pleasure to follow Jackie Dunbar. She and the Presiding Officer mentioned the literary comments that were made earlier. The legal decision on *Donoghue v Stevenson*, which was welcome, was in 1932, which is 90 years ago this year.

I thank the Delegated Powers and Law Reform Committee for its work on the stage 1 report, along with the clerks and the people who gave evidence. The report is a phenomenal piece of work for a bill that was introduced in May this year but, of course, the bill dates back to the Scottish Law Commission's work that resulted in its report in 2017.

To be fair, the convener did a slight disservice to his committee because, as well as looking at the bill, it also had to undertake work on the subordinate legislation that flows from it. That is a huge ask of a committee and it stands as a great tribute to what the committee has achieved—

**Stuart McMillan:** I commented on that point during my speech.

**Martin Whitfield:** It is my fault for not listening properly and the member's fault for cutting off my compliment to the committee.

I also take the opportunity to mention the Finance and Public Administration Committee, which undertook work in relation to the bill and passed on to the DPLR Committee the four submissions that it received.

That raises a question that the Parliament needs to consider at some stage in relation to the standing order rules for how Scottish Law Commission bills come to the chamber, because it has taken an enormous length of time for the bill to come before us. We have heard in every speech about the huge benefit that it could provide to the Scottish economy, particularly small businesses, in facilitating a way of raising finance. I know that that issue does not sit in the minister's remit, but it would be interesting to hear his thoughts on why the bill has taken so long and why other SLC bills are sitting in abeyance.

**Stuart McMillan:** The committee discussed the timescale and came to a unanimous viewpoint on it. We also recognised that, in the previous parliamentary session, the amount of work that the Parliament and the Delegated Powers and Law Reform Committee had to deal with because of leaving the European Union and Covid—two huge incidents—played a part in the delay of the bill.

**The Deputy Presiding Officer:** Mr Whitfield, I can give you that time back and more.

**Martin Whitfield:** I am grateful, Presiding Officer, because that allows me to mention the pressures that exist on committees across the Scottish Parliament, which are being noted outside the chamber. Those are becoming an important element of how the Parliament holds to account the Government. The resources must be available to do that properly.

I will look in detail at the minister's letter of 12 December. I thank him for managing to publish it before the debate, which is important.

Questions have been asked of the minister about the work that is being done with the Government at Westminster. I push further on whether the Westminster Government will support the Scottish Government's requests about amendments that are needed at Westminster to ensure that laws can be brought up to date—in that regard, it would be remiss of me not to mention the United Nations Convention on the Rights of the Child, as I do in many discussions. I urge the minister to press the Westminster Government much harder to get an answer than is perhaps happening on other matters.

There is another point in relation to the assignation of consumers' debt. I am very grateful for the Government's indication that individual consumers will be removed from that part of the bill. As Maggie Chapman rightly said, if the issue affected even only one or two people, that would still be absolutely wrong. I believe that there are people out there who would take the opportunity to exploit the financial challenges that a lot of people in Scotland face because of the cost of living, and that that would have a detrimental effect. Later, I

will return to sole practitioners and how individuals can be excluded.

On the Financial Conduct Authority and the financial instruments that will be created under the bill, is the minister aware whether the collateral arrangements will fall under the consumer credit agreement, with regard to sole traders in particular?

On the issue of the practice in Scotland, whereby payment of the debt is normally made to the original creditor and is then passed on, I was grateful that the minister took an intervention on that and clarified the situation. Going forward, is the minister concerned that the situation will change under the bill, so that payments will be made not to the original shop or contractor, but to somebody else? Might that cause commercial problems for some small traders in particular, if that puts customers off coming into their shop, if I can phrase it that way?

I would like to take a small amount of time to thank StepChange, Citizens Advice Scotland, Money Advice Scotland and CAP for their huge amount of work. Again, I find it interesting that such an unforeseen consequence could come to light so late in the day. I am aware that the Government has indicated that it was in correspondence about the matter back in, I think, 2020. I thank those organisations for highlighting a problem that appeared to have gone unnoticed for a significant period. It speaks volumes of the committee that the issue was raised, that the Government listened and that the bill will be changed.

That brings us to the challenging question of how to exclude individuals from the relevant provisions while keeping in sole traders. I am conscious of time, so I ask the minister whether, in summing up, he will be able to give some indication of how the Government intends to protect individuals but allow sole traders access to an important finance measure.

The bill is an important one that will modernise the legislation. Sometimes old legislation is not bad, if it works properly, but in this case there is substantial evidence that it is holding back investment opportunities, particularly for small businesses. I very much welcome the bill and the support for it at stage 1, but the committee and this debate have shown that changes are needed before stage 2. It will be interesting, as always, to see the amendments that are lodged by the Government and other members in an effort to make the legislation fit and proper so that, as others have said, we can free up the finance to give those with interesting ideas and interesting businesses the ability to grow from being sole traders to—who knows?—maybe multinationals.

16:13

**Paul McLennan (East Lothian) (SNP):** My first job after leaving school was with the TSB in Haddington. I have made some good career choices—I have been a banker and a politician. I was with the TSB for two years, then I moved to the Bank of Scotland, where I spent the next 20 years working in the branch network as a financial adviser and latterly in business and corporate banking. The companies that I dealt with ranged from small one-person businesses to small SMEs to larger-scale businesses with hundreds or indeed thousands of employees. Key for all of them was access to finance.

As of March 2022, there were nearly 360,000 private sector businesses operating in Scotland. Businesses with no employees—sole proprietors or partnerships comprising only the owner-manager or the employee-director—accounted for 70 per cent of all private sector enterprises in Scotland and 14 per cent of employment. Some good points have been made today in the discussion around protections for sole traders' access to finance, which I think will be an on-going topic as we discuss the bill.

We can therefore see the scope for supporting and growing our small businesses in key sectors across Scotland, and in East Lothian in particular—for example in agriculture, manufacturing, transport and tourism, all of which require asset finance.

The Economy and Fair Work Committee has just published a report on its inquiry into retail and town centres in Scotland. A key finding was on funding mechanisms and how additional support can be provided as seed funding to assist the setting up and on-going work of regeneration projects as they become established and develop plans and projects for their town centres. A key requirement for any business that wants to grow and expand its workforce and earning capabilities will be the ability to borrow. Martin Whitfield touched on the potential for sole traders and small businesses to move on to be larger employers, which is an incredibly important aspect.

As we heard, the bill will implement the Scottish Law Commission's report on moveable transactions, which was published in December 2017. Mr Whitfield made a good point about it having taken five years to get to the point where the report has led to the introduction of draft legislation. The commission made 203 recommendations. The Scottish Government broadly accepted the SLC's proposed vision on reforming and modernising the law in this area. The bill has the potential to have a powerful and transformational impact on small businesses—in particular, on their being able to facilitate invoice

financing, as the current Scottish legal structures are not optimal for doing that.

The bill also encompasses the law relating to the assignation of a claim to the right to performance of an obligation—typically, the right to be paid money; security over corporeal moveable property such as vehicles, equipment, whisky or livestock; and, importantly, security over certain kinds of incorporeal moveable property such as intellectual property, which includes copyright, trademarks, design rights and patents.

**Martin Whitfield:** Does Paul McLennan have any concerns about the fact that valuing intellectual property is incredibly difficult? More importantly, the new registration process might bring challenges to protecting such property, if information has to be made public earlier than a company or an individual might wish.

**Paul McLennan:** I agree with that point, which I intended to raise with the minister. I am not a legal expert, but I have had that concern raised with me, so perhaps the minister could pick it up in his closing remarks.

The bill will enable both businesses and individuals to use their assets to raise finance by selling debts owed to them or by granting security over moveable property. In those ways, businesses can secure crucial cash flow finance as has happened in the banking sector for many years. If businesses cannot fully exploit their assets other than heritable property to raise finance, they might have to resort to seeking finance through riskier and more expensive types of lending such as leaseback arrangements, trusts or licensing, which are inevitably more expensive to effect.

English law is sometimes used instead, which involves Scottish businesses having to register in England. For example, a business might wish to acquire funding by transferring to a financial institution its claims to payment of its customer invoices, which would be done by means of an assignation. Alternatively, it might want to retain assets such as vehicles, equipment and intellectual property but use them as collateral to obtain loan finance. Individuals might also wish to use vehicles to secure finance.

As we have heard, Scots law in this area is badly outdated, unduly restrictive and unfit to meet the needs of modern Scottish commerce. It is mainly non-statutory and is unclear in some important respects that we have heard about in the debate. As we have also heard, the principal statute has been on the books since 1862. The bill will make various types of commercial transaction more efficient, less expensive and less complicated than they currently are. That will lead

to greater access to finance for businesses in particular and for individuals in Scotland.

**Stuart McMillan:** I am sure that Paul McLennan will agree that the bill is yet another example of the successful implementation of the SLC's work, as has happened in the past. For example, the Legal Writings (Counterparts and Delivery) (Scotland) Bill became an act that significantly improved business transactions.

**The Deputy Presiding Officer:** I can give you time back for interventions, Mr McLennan.

**Paul McLennan:** I agree with Stuart McMillan. The bill's name would suggest that it is not the sexiest of those currently before the Parliament, but the difference that its implementation could make is incredibly important, as was the case for the earlier bill that the member mentioned.

The current bill's reforms were welcomed by witnesses before the DPLR Committee, who stated that the legal infrastructure that Scotland currently relies on is from the 19th century. Dr Jonathan Hardman, a senior lecturer in company law at the University of Edinburgh and a member of the Law Society of Scotland, indicated that

"reform in this area is needed drastically and as soon as possible".

Reflecting on the potential for the development of a new high-cost credit market, Myles Fitt, Citizens Advice Scotland's strategic lead for financial health, described the bill as

"a shot in the arm for the high-cost credit industry, which is always waiting for the next opportunity."—[*Official Report, Delegated Powers and Law Reform Committee*, 4 October 2022; c 3, 39.]

In conclusion, the policy objectives of the bill contribute to the realisation of the Scottish Government's economic purpose. We already have a strong, dynamic and productive economy that creates wealth and employment across Scotland. Our economy is competitive and we have good international trade, investment and export networks. We are considered an attractive place to do business. The bill will help us in that regard.

**The Deputy Presiding Officer:** We now move to closing speeches.

16:20

**Paul Sweeney (Glasgow) (Lab):** Although the opening speeches focused on concerns about and deficiencies in the bill, it has been great to see the debate evolve over the course of the afternoon to focus on the opportunities that it presents, culminating in the speech made by the member for East Lothian, on the opportunities for small and medium-sized enterprises in particular. He mentioned his experience working at TSB and

Bank of Scotland. My mum worked for both those banks, so I, too, express the opportunities, but I also highlight how concentrated Scotland's financial services landscape is on a handful of big financial institutions. Although they have a lot of opportunity to open up increased financial packages for business lending, perhaps that is something that could be considered more broadly.

An issue that was raised when the committee took evidence was that conventional financial institutions highlighted the opportunities for business lending but did not recognise the concerns about consumer risks because they would not ordinarily enter that space, as the credit products that they offer would not be provided to people in distressed circumstances. That is where there was a major gap in the consideration of evidence—the right modelling and consultation was not carried out because people are not going to advertise that they are going to rip people off. The Wongas, BrightHouses and other nefarious institutions of that sort are not going to turn up at the committee or the Scottish Law Commission and advertise that they plan to prey on vulnerable people.

While we highlight the opportunity that the bill presents, which is absolutely correct, we have to be cognisant that many of the risks do not present themselves as obviously as we might like. That major concern became apparent only when the money advice agencies came forward and said that the bill could potentially open a Pandora's box. I am pleased that the Government has taken swift action to address those concerns. I hope that we can be wary of that in the future.

There have been some very important speeches today, particularly from Jenni Minto and Maggie Chapman, who talked about the risks that businesses currently face in a very difficult financial landscape in which we are seeing increasing cost pressures. Jackie Dunbar referred to structural issues, particularly around invoice, finance and cash flow constraints, which have strangled and destroyed many great businesses in Scotland that had a lot of potential to offer our country. The landscape of destruction that has been unnecessarily brought about by the lack of access to finance is tragic—it has stymied our economic potential.

A potential solution to that—or at least something that will help—will be a major opportunity. It was mentioned that 3,000 businesses fail every year due to cash flow constraints. To be able to liquidate that liability and pass it on to a business or secondary provider that is not under the same financial constraints would be a definite boon for small and medium-sized enterprises across Scotland.

Maggie Chapman made a really important point about the huge opportunity for businesses with intangible assets, which are an increasingly important part of our economic model in Scotland. The traditional industrial model with big factories and assets that were property based is no longer such a feature of our economy. Increasingly, for small and medium-sized enterprises, it is the value of intellectual property that counts. When we consider the richness of our university sector and its spin-off companies in particular, the huge opportunities to raise increased finance are really exciting.

**Martin Whitfield:** On that point, we have talked eloquently in the Parliament about the gaming industry across Scotland, which might benefit from the change, given the long period of development time that is taken to produce a game and the inherent value that increases as each development step takes place.

**Paul Sweeney:** Martin Whitfield makes a really important point about the gaming industry. It is a good example of where Scotland is a world leader but has to sell the companies to overseas owners in order to raise the finance to bring the games to market. In a way, we are seeing massive overseas ownership of a sector in which Scotland leads the world because the companies that grow out of Scotland cannot raise the finance—they get to a certain level of financial gearing and then they hit a glass ceiling. For example, Grand Theft Auto, which was developed in Dundee, is now owned by a company based in New York. The situation is almost tragic. Would it not be great to have the global headquarters in Dundee, rather than New York, given that it is driven by Scottish ingenuity? Those are examples where the bill could be a real game changer—pardon the pun—for the Scottish economy.

Members such as Katy Clark raised important points about the gap in understanding around the development of the bill. The voice of the poor is very often the last to be heard, and this process is an example of that happening. Unscrupulous and predatory activity in our economy is very little understood by the establishment that develops these bills, and we need to take cognisance of that. It is great that the Parliament has managed to effectively capture the issue, which speaks to the utility of the Parliament as an institution in the land.

Mike Dailly's description was very apt when he said that the bill could have led to the introduction of "virtual pawnbroking". To have that happen in our economy during a cost of living crisis would have been absolutely disastrous, so it is great that the Government has addressed the issue, and we support it in doing that. However, we also need to emphasise the huge opportunities. I go back to the

point that Martin Whitfield and Maggie Chapman raised: this is an opportunity for the Government to look at how the enterprise agencies and the Scottish National Investment Bank could capitalise on this. It is not just down to the private financial sector to develop products; it is also for our state enterprise agencies to look at how they can capitalise on the opportunity, so that we can bring forward products that will help grow the Scottish economy and improve our productivity.

With that, I further emphasise Labour's support for the bill at stage 1.

**The Deputy Presiding Officer:** I call Oliver Mundell, who has around seven minutes.

16:26

**Oliver Mundell (Dumfriesshire) (Con):** I will probably disappoint when it comes to filling the full seven minutes, but I have very much enjoyed today's debate. I particularly enjoyed Jackie Dunbar's mention of her O-grade pass in accountancy, because it gives me the chance to fess up and say that I did not do particularly well in Professor Andrew Steven's property law class. Therefore, when he appeared in front of the committee and I had the chance to question him on the issues around the bill, I had to tread carefully in case I got any remedial lessons.

The evidence that we heard on the bill largely focused on the challenges around its application to individuals and showed that the bill is a well-designed and much-needed piece of legislation. As a Parliament, we have to be careful when we talk about Scottish Law Commission bills, because the process by which they come to the DPLR Committee is meant to be based on their being non-controversial. The truth is that the bill is not controversial, but it has touched on the controversial issue of predatory lending, particularly to vulnerable individuals. However, it is not the substance or the initial intentions of the bill that have caused that controversy, which has been a result of the process.

**Martin Whitfield:** That point also speaks to the strength and value of the Parliament's committee system. This is not meant to be disrespectful, but I note that something that had gone unnoticed in the work of the commission, which does superb work, found a voice and an opening in the Parliament, through concerns being raised with a group that then was able to express those concerns. The standing orders make provision for commission bills because they are meant to be uncontroversial, but that also acts as a protection. It is a great compliment to the committee that it was through its work that the issue came to light and has been accepted by the Government.

It is also nice to hear the final member of the committee speak in the debate.

**Oliver Mundell:** In that intervention, Martin Whitfield has touched on part of the challenge: the Scottish Law Commission is asked to do a certain job, but it is not asked to do the job of politicians. It is our job to talk about the morality, politics and practical effects of legislation, and the fears that those can generate. It is not for academics or those bringing forward such proposals to the Government and the Parliament to test out all the political aspects and challenges that those proposals bring.

The process has worked this time, because it has allowed a bill that is not fundamentally controversial to be introduced more quickly than it might otherwise have been; it has also allowed for all the issues in the bill to be tested. The minister has certainly worked well with the committee in recognising that challenge. Even if it is not as big an issue in practice as some witnesses or members of the committee felt, we have to take steps in the bill to make clear its intention if people are to have confidence in it.

I am interested in an issue that has not come up in the debate, which I ask the minister to look at or to touch on in his closing speech. One concern that came out of the discussions is whether money advice services that act on behalf of individuals on a pro bono basis should be able to conduct free searches. I know that the minister said in his letter of 12 December that relatively small amounts are involved: a £60 registration fee and a £4 search fee. However, such fees could start to add up for organisations such as Citizens Advice Scotland, which operates across much of Scotland, deals with a lot of vulnerable individuals and might do a lot of searches in trying to work out exactly who people owe money to. If we are going to create this opportunity for businesses and lenders, we have to be mindful that there could be disadvantages for other organisations that act in the wider public interest to support our constituents and those accessing finance across the country. I would like to hear a little more about that.

I reiterate the Scottish Conservatives' support in principle for the bill, and I thank the minister again for the constructive way in which he appears to be proceeding towards stage 2.

16:31

**Tom Arthur:** I thank members across the chamber for their contributions to a very stimulating and informative debate, and I reiterate my sincere thanks to the Delegated Powers and Law Reform Committee for its work.

I am conscious that, on occasion, there has been some commentary from outwith the Parliament that perhaps questions how effectively our committees provide scrutiny. However, the work that has been undertaken on the Moveable Transactions (Scotland) Bill absolutely demonstrates the value of our committee system, which is leading to better legislation.

The bill is a Scottish Law Commission bill, and I am conscious that many questions have been raised about the process. As I indicated in my letter to the committee, I have raised that matter with the Minister for Community Safety. As a former member of the Delegated Powers and Law Reform Committee in the previous parliamentary session, I know that there was close engagement with the Government on the process, and I would be happy to have further engagement with my ministerial colleagues. We recognise that SLC bills are, by their nature, uncontroversial, but we cannot necessarily anticipate all eventualities once legislation has been introduced and, as would be expected, attracts wider public engagement and interest. That is, of course, a process, and we will always learn from every SLC bill that we introduce.

I will touch on some of the specific points that members have raised.

Jeremy Balfour called for the bill to have a speedy passage, and Katy Clark suggested that we must take our time to get the amendments right. I will attempt to strike a balance, but I will do so informed by the collective wisdom of the Parliament and the committee, because it is absolutely imperative that we get the legislation right. I think that we all recognise the bill's transformative potential for businesses.

A key issue that has been raised this afternoon follows on from what I said in my opening speech, in which I indicated the Government's intention to lodge an amendment—or amendments—at stage 2 to exclude individuals other than sole traders from the statutory pledge provisions. In particular, questions were raised about the distinction between an individual acting in their capacity as an individual and an individual acting in their capacity as a sole trader. I rather hoped to mine the Parliament's collective wisdom and hear various suggestions this afternoon, and I have certainly benefited from that. We will consider those suggestions carefully, and I am, of course, happy to engage with members individually or collectively and, indeed, to engage with the committee ahead of stage 2, because I am conscious that there can be challenges in having to draw fine lines.

We are clear about the outcome that we wish to achieve, which is to exclude individuals and include those who act in a business capacity. However, the reality is that there can sometimes

be a fine line between those aspects—that even applies when individuals want to distinguish between acting in their capacity as an individual and operating as a sole trader.

**Martin Whitfield:** Perhaps consideration can be given to making rights unenforceable against an individual who is not a sole trader. That would allow differentiation to deal with the challenge when an asset, such as a musical instrument, might be a household good for one person but a tool of work for another person.

**Tom Arthur:** I note Mr Sweeney's suggestion that the protections that are, in the bill as introduced, for individuals as consumers should be transposed to protect small businesses and individuals as sole traders. I am happy to reflect and engage on all such points.

As I said, I recognise that we have a shared outcome to achieve, so a key priority is getting the drafting as precise as possible to give us all confidence that the bill will give effect to what we want it to achieve.

Mr Balfour asked a question about financial instruments; I touched on that in my written response, and I reiterate that I will reflect on whether I can provide more information. On electronic signatures, he raised the important question whether sole traders will have the appropriate software and technology to use the form of electronic signature that the bill prescribes. As I said in my letter to the Delegated Powers and Law Reform Committee, I am happy to consider that further and I will engage with the FSB on the matter.

Paul Sweeney offered a range of ideas and I very much welcome his contribution. He recognised the bill's value and the need to get it right, and I very much welcome the Labour Party's support in ensuring that the bill delivers what is wanted. Katy Clark addressed unintended consequences, and it is clear that an unintended consequence has been identified through the committee process. When we amend the bill, we do not want to create other unintended consequences, so I reiterate my commitment to engaging closely.

Michelle Thomson made a number of points, on which I will provide reassurance. A dual system will operate, but we expect that the majority of assignments will be through the statutory register, although the potential for intimation will still exist, which could be used for transactions when confidentiality issues are more pressing.

On protection for debtors, I assure Ms Thomson that debtors who perform to the assignor in good faith because they are unaware of the assignment will be protected, and debtors will not be required or expected to search the register. I would be

happy to meet her to discuss the matters that she raised for specific business models.

I very much welcome Maggie Chapman's contribution, in which she recognised the bill's potential to support businesses across Scotland. Along with other members, she raised questions about the process and timescales. As I said, we can collectively reflect on that.

I congratulate Jenni Minto on what was perhaps the most creative speech of the afternoon. She raised important points. She referred to Lady Paton's point about the bill's potential to support more women into business. It is essential that we recognise that the bill could have that clear benefit and could support and confer benefits on one of our national industries—whisky.

Martin Whitfield raised a number of points. He asked for an update on getting a section 104 order. We are in continuous engagement with the UK Government and I will certainly press it to continue to engage with us, which it has been doing. Its perspective is that the bill is a complex and technical piece of legislation—as we all recognise—that it wants to consider carefully. I hope that, through a process of mutual engagement and respect, we can get the outcome that we want, which is the inclusion of financial instruments in the legislation, as the SLC originally intended.

Mr Whitfield posed a question about how we intend to remove individuals while protecting sole traders, which I touched on earlier. We will have to consider that carefully, but I reiterate that I am keen to hear all ideas and to work constructively with members across the chamber.

I am conscious of time, but I will touch briefly on the point that Paul McLennan raised regarding incorporeal assets such as intellectual property, which I know is of interest to members. I highlight that while a pledge would be over corporate patent, for example, it would not be necessary to describe the IP in detail or in the register. We want to provide that reassurance.

I welcome the contributions from members on all sides of the chamber. I very much welcome the work of the committee, and I thank Parliament and the committee specifically. I look forward to continuing to work with members ahead of stage 2.

## Point of Order

16:40

**Stephen Kerr (Central Scotland) (Con):** On a point of order, Presiding Officer. I seek your guidance on a matter of procedure in relation to scrutiny of the Government. I would like to understand what the options are for me, as a member of the Parliament, to bring ministers to the chamber in order to scrutinise them.

This morning, the Scottish Government released statistics that show a sustained reduction in the number of teachers in Scottish schools. They show that the numbers are down by 92 since last year, despite an increase in the school population of 1,151 pupils. There is a great deal to unpack in those figures and in the other figures that were released this morning but, in essence, class sizes are up and teacher numbers are down.

In 2007, there were 55,100 teachers in schools, in comparison with 54,193 today, despite an increase in the number of pupils from 692,215 to 705,874. There is definitely an issue there that deserves the scrutiny of the Parliament. It is calling out for scrutiny.

There are—*[Interruption.]* There are consequences of the reduction in teacher numbers: for pupils, as they seek to make subject choices for the future; for parents, who are uncertain of the size of the class that their children will go into; and for teachers, who are stressed as a result of high workloads and whose morale has been sapped by the failure of the Cabinet Secretary for Education and Skills to get to grips with their justifiable concerns, which has led to the current industrial action.

Presiding Officer, I ask you to advise me on how we can ensure that the matters in the summary statistics—*[Interruption.]* I know that the Scottish National Party members do not like to talk about these things, but they are important matters for our consideration. I seek the Presiding Officer's guidance. How can we ensure that the matters arising from those summary statistics for schools in Scotland can be addressed in full in the chamber? How can I, as a member, bring the cabinet secretary to the chamber and question her on these important matters, as our constituents would expect?

**The Presiding Officer (Alison Johnstone):**  
Thank you, Mr Kerr.

I remind members that, under rule 8.17,

"A member may in any proceedings question whether proper procedures have been or are being followed by making a point of order."

I would be grateful if members could keep that at the forefront of their minds in any contribution.

I say to Mr Kerr that there are many opportunities across the week, and there are different mechanisms that he may use, to put questions to the Scottish Government.

## Moveable Transactions (Scotland) Bill: Financial Resolution

16:43

**The Presiding Officer (Alison Johnstone):** The next item of business is consideration of motion S6M-06641, on a financial resolution for the Moveable Transactions (Scotland) Bill.

*Motion moved,*

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

(a) any expenditure of a kind referred to in Rule 9.12.3A 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.—[*John Swinney*]

**The Presiding Officer:** The question on the motion will be put at decision time.

## Business Motion

16:43

**The Presiding Officer (Alison Johnstone):** The next item of business is consideration of business motion S6M-07236, in the name of George Adam, on behalf of the Parliamentary Bureau, on changes to this week's business.

*Motion moved,*

That the Parliament agrees to the following revisions to the programme of business for Thursday 15 December 2022—

delete

5.00 pm                      Decision Time

and insert

5.30 pm                      Decision Time—[*George Adam*]

*Motion agreed to.*

## Motion without Notice

16:44

**The Presiding Officer (Alison Johnstone):** I am minded to accept a motion without notice, under rule 11.2.4 of standing orders, to bring forward decision time to now. I invite the Minister for Parliamentary Business to move the motion.

*Motion moved,*

That, under Rule 11.2.4, Decision Time be brought forward to 4.44 pm.—[George Adam]

*Motion agreed to.*

## Decision Time

16:44

**The Presiding Officer (Alison Johnstone):** There are two questions to be put as a result of today's business. The first question is, that motion S6M-07210, in the name of Tom Arthur, on the Moveable Transactions (Scotland) Bill at stage 1, be agreed to.

*Motion agreed to,*

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

**The Presiding Officer:** The final question is, that motion S6M-06641, in the name of John Swinney, on a financial resolution for the Moveable Transactions (Scotland) Bill, be agreed to.

*Motion agreed to,*

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

(a) any expenditure of a kind referred to in Rule 9.12.3A 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.

## Free Rail Travel (Blind and Partially Sighted People and Companions)

16:46

**The Deputy Presiding Officer (Liam McArthur):** The final item of business is a members' business debate on motion S6M-06145, in the name of Graham Simpson, on free rail travel for blind and partially sighted people and companions. The debate will be concluded without any question being put. I invite members who wish to participate to press their request-to-speak buttons or type RTS in the chat function, if they are joining us online.

### *Motion debated,*

That the Parliament notes that there is no national entitlement to free rail travel for companions under the National (Scotland) Concessionary Travel for Blind Persons card; understands that this is in contrast to the provision afforded to bus travel; is concerned that cost was named by more disabled people than non-disabled people as a reason not to use the train in the 2021 Scottish Household Survey; believes that a national rail concession policy for companions would improve safety, access to employment and social connections for the estimated 180,000 people living with sight loss in Scotland, including in the Central Scotland region, and notes the calls on the Scottish Government to work with local authorities to establish a national policy.

16:47

**Graham Simpson (Central Scotland) (Con):** I start by thanking all 32 members from four parties who signed the motion that is before us. The issue has certainly struck a chord—and rightly so. It was brought to my attention at a meeting in September with Sight Scotland and Sight Scotland Veterans, which are two of Scotland's oldest charities. For more than 200 years, they have been determined that no one should face sight loss alone and, in essence, that is what we are talking about in this debate. Given that the number of people in Scotland with sight loss is set to rise to more than 200,000 by 2030, there is a real need for support.

The issue is that there is no national policy for rail travel across Scotland that entitles the companions of blind and partially sighted people to free rail travel. Different concessionary and companion schemes are in place in various areas and councils, which is causing confusion for passengers and rail staff.

At the end of September, I wrote to the Minister for Transport and she replied, having subsequently met Sight Scotland. She admitted in her response to me that there is a postcode lottery—although that is my phrase. I hope that

she will offer a solution to that today, because the situation is clearly unfair.

I will give an example from my region, where two different schemes operate. Falkirk Council offers no discount for companions, but Strathclyde Partnership for Transport has a scheme under which companions can travel at half the fare when accompanying someone. That contrasts with the national policy for bus travel, under which companions of people with a national entitlement card with the eye and "+1" symbols can travel for free on any service across Scotland.

For many blind and partially sighted people, having a companion can mean the difference between travelling or not travelling. A partially sighted person supported by Sight Scotland Veterans said:

"I would like to use the trains more often, but no way would I travel without someone else with me. My eyesight is getting worse—I couldn't travel without a companion now."

Another veteran said:

"It's more dangerous getting on and off a train with a sight problem than on a bus. I always need someone when travelling. It's also easier with +1 to use the bus, because my partner gets on for free, but I would prefer to use train because it's quicker."

Even when a concessionary scheme exists, it is not always possible to buy a ticket or the scheme is not known about. That is largely due to a lack of infrastructure, as there is no option on the ticket machine to select a companion ticket. Very often, that means that a companion must buy a ticket at full price, despite being entitled to a discount, depending on which local authority area they are travelling from or to. Companions of people with a card with the eye and "+1" symbols are often reliant on the knowledge of train staff about schemes to access the discount. At stations that have no staff, particularly smaller stations, asking someone simply is not an option. The situation is confusing and stressful.

Members might reasonably ask why someone's travelling companion should travel for nothing or, indeed, why someone who is blind or has sight problems should do so, and that is a fair question. We know from the latest findings from the Scottish household survey that household incomes for disabled people tend to be lower than incomes for those who are not disabled. Cost was named by more disabled people than non-disabled people as a reason for not using the train. Use of rail services among disabled people is also lower than it is among non-disabled people, with 3 per cent of disabled people citing health reasons when saying why they do not use the train, compared with 0 per cent of non-disabled people. Those findings reflect the experiences of people with a visual impairment.

A single parent with Stargardt disease, which is a form of macular degeneration that causes central vision loss, explained the benefits of having a companion when travelling and why, although taking the train would be her preference, she chooses to take the bus instead, due to cost. She said:

“I go everywhere by bus only because of the free companion travel—that’s the reason I use the bus over the train, because of the concessionary rate for whoever is with me. I’d rather take the train as the bus can be so unreliable, especially in the darker nights, which reduces what vision I do have even more. I’d take the train more if I could.”

The charities estimate the cost of implementing a national policy for companions to be around £2 million. When we think about the benefits that it would bring, that is a small price to pay. It would make public transport more accessible and help the economy by improving access to employment. One in four registered blind and partially sighted people of working age are in employment, and the scheme could help to remove barriers to simply getting to a workplace. If the Scottish Government is serious about achieving the vision, as set out in its accessible travel framework, that

“All disabled people can travel with the same freedom, choice, dignity and opportunity as other citizens”,

it should provide free rail travel for blind and partially sighted people and their companions, as that would have a significant impact in meeting those outcomes.

A lack of national policy on free rail travel for companions of blind and partially sighted people is causing anguish for passengers and rail staff. It is clear to me that having a companion can ultimately make the difference between someone being able to make a journey or not. I therefore thank Sight Scotland and Sight Scotland Veterans for bringing this important issue to my attention, and I urge members to back the calls for a national policy to take steps towards a more equitable and accessible rail network across Scotland for everyone who uses it.

16:54

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** I am pleased to contribute to this important debate, and I thank Graham Simpson for bringing it to the chamber. His motion on free rail travel for blind and partially sighted people and companions really says it all: the cost of travelling on the train is prohibitive for blind or partially sighted people, because their essential companion has to pay.

I am fortunate to have the headquarters of the wonderful Deafblind Scotland in my constituency, and it raised that as the issue of most concern to it at one of our regular meetings. There is no national standard fare structure for communicators

to accompany deafblind passengers on trains. I understand that travel is free on some routes but chargeable on others, as Graham Simpson outlined, which leads to geographical inequalities and confusion among rail staff.

The reality is that companions are even more essential on trains than they are on buses, where travel is—rightly—free for them. There are several factors that make that case. Of course, free travel is necessary on both forms of transport, but, when using trains, the gap between the platform and the train is of variable size, as is the height of the platform, and it is dangerous or impossible for a deafblind person or a partially sighted person to navigate that. In addition, stops can be missed, as the passenger cannot hear announcements or see the signage at stations. Also, these days, fewer and fewer stations have an on-site employee, so no help can be summoned, even in an emergency, which is obviously extremely concerning.

Added to those issues is the fact that the driver cannot help passengers. Indeed, they cannot even know whether someone is safely in their seat before they move off, in the same way that a bus driver can, by looking round.

I have no idea what the provision of the entitlement would cost. I know that the Government is financially extremely constrained at the moment, but I hope that a commitment can be made that that is something that we can deliver, if not immediately, then at some time in the near future. I look forward to hearing the minister’s response to that. The fact that the service is currently delivered by way of a postcode lottery—or a rail-route lottery—suggests to me that it would be possible to expand provision throughout Scotland without major disruption or expense.

I do not believe that anyone who is not directly affected by the exclusion could possibly understand how it feels to know that they are, in effect, barred from travelling by train. Levelling out the service would make a world of difference to those who need it and, to be honest, we owe it to those people who are bravely dealing with their sight loss and many other struggles every day to do so.

I think that I speak for all the amazing staff, volunteers and service users of Deafblind Scotland when I say that the ability for those people to travel throughout our country in safety and comfort would literally open up a whole new world for them.

**The Deputy Presiding Officer:** Neil Bibby joins us online.

16:57

**Neil Bibby (West Scotland) (Lab):** I commend Graham Simpson for bringing this members' business debate to the chamber and for shining a light on an inequality that makes little sense.

The Parliament has a proud record of making public transport available to people who need it, whether they are the young, the old or the disabled, and there is a consensus in Parliament on the principle of concessionary travel for the groups who need it most. However, this debate reminds us that it is not just cost that is a barrier to accessing public transport and connections to the wider world.

After all, what is the point of having free travel if someone is unable to take up the opportunity because they need an assistant and are unable to pay for a companion? It seems anachronistic for that problem to be recognised for those who use our bus network but not for those who travel by rail. In addition, it does not seem fair that the benefit is afforded in some local authority areas but not in others. Scottish Labour strongly supports that being reviewed and access being widened to include companions of the blind on rail. That positive progressive step would improve the lives of thousands of people and recognise the specific challenges that people with sight loss face every day.

According to Sight Scotland, that would also improve social connectedness, as sight loss contributes to feelings of loneliness, and improve employment opportunities, as Graham Simpson outlined, for the three quarters of working-age blind and partially sighted people who are not in employment.

The Scottish Government's national transport strategy delivery plan states:

"We will continue to review the benefits of the Scheme to ensure it best meets people's needs and delivers a best value solution."

Against that background, the estimated cost of £2 million, as per Sight Scotland's calculations, would represent very good value.

The motion brings together two causes that I have supported since I was elected to this Parliament: better support for those who are blind or partially sighted and a better rail service for the wider public.

On the first cause, I pay tribute to the amazing work that is being done organisations such as Sight Scotland and the RNIB, which campaign tirelessly for the blind and partially sighted, constructively pointing out the many flaws in our public services that act as obstacles for those with sight issues and reminding us of the specific challenges that this community faces every day.

The RNIB's transport accessibility agenda for this Parliament, which includes providing bus drivers with mandatory disability awareness training so that they can assist passengers, making service and timetable information available in accessible formats such as braille and large print, and having audio and visual announcements on buses, reminds us of the progress that we still must make before the public transport is fit for those with sight difficulties. All that is before we even get to the issues that impact on the rail services that we enjoy, whether sighted or not.

On the second cause, we face a real challenge in attracting people back to our railways and a programme of service cuts and office closures will only further reduce passenger numbers, moving us further away from the good and affordable service that we all want.

I hope that we can learn from other countries, where positive steps such as short-term rail fare reductions can again make taking the train viable during a cost of living crisis, when people have to find alternatives ways to get to work.

In summary, I put on record my hope that we can make this policy idea a reality for blind or partially-sighted passengers, as a positive next step towards delivering a transport network that works for everyone.

17:01

**Russell Findlay (West Scotland) (Con):** I thank Graham Simpson for bringing this debate to the chamber. It focuses on a big issue that faces people in Scotland who are affected by sight loss.

I cannot be in the chamber today due to industrial action on the railways. However, in a debate about rail travel, I will begin with a railway reference and speak about an incredible sculpture that is situated outside Manchester's Piccadilly train station. Titled "Victory Over Blindness", it depicts a line of seven life-sized blindfolded first world war soldiers. The great war claimed the lives of an estimated 900,000 British military personnel, and countless more were maimed or injured, including tens of thousands who suffered damaged eyesight or permanent blindness. When I first saw "Victory Over Blindness" a few months ago, it stopped me in my tracks and made me think, as good art should. Cultures throughout history have been mindful of human mortality and the inevitability of death. That poignant memorial made me feel profoundly grateful for the precious gift of sight. It reminded me how lucky I am to be able to see it with my own eyes. Although it may be difficult to imagine living in a world of darkness, it is important that we sometimes take the time to do so.

I experienced similar feelings during a recent visit to the Sight Scotland Veterans Hawkhead centre in Paisley. That fantastic facility supports ex-military personnel who suffer from sight problems. The emphasis is on providing them with the skills and confidence to live as independently as possible. At one point, I inadvertently caused a stooshie between Army and Navy veterans, but I was assured that such friendly fire is a daily occurrence. The centre manager, Alison Gray, and her team are passionate about making a difference to the lives of those who visit. Just like the statue in Manchester, my visit to Hawkhead caused me to count my blessings.

It was during my visit to Hawkhead that I first heard from the sister charity, Sight Scotland, about its campaigning work. The fair rail vision campaign seeks free rail travel across Scotland for those who have a national concessionary travel for blind persons card and their companions. As Graham Simpson articulated so well, the introduction of a Scotland-wide policy would be life changing for many people living with sight loss. At present, the fact that a blind person's companion must pay to travel can be the difference between that person making a journey or not. That can close the door on opportunities for employment and social interaction.

In response to a Sight Scotland consultation, 60 per cent of correspondents said that sight loss caused them feelings of loneliness. Increased isolation can make their world darker and their horizons smaller. Almost 25,000 people in my West Scotland region live with sight loss, with the largest number—almost 6,000—living in Renfrewshire. I therefore urge ministers to embrace this sterling campaign and work with local authorities to make the policy happen.

As Rona Mackay said, let us end the rail route lottery. That aim is entirely consistent with the Government's accessible travel framework, which rightly states as a vision:

"All disabled people can travel with the same freedom, choice, dignity and opportunity as other citizens."

17:05

**Katy Clark (West Scotland) (Lab):** I refer members to my entry in the register of members' interests.

I congratulate Graham Simpson on securing this debate and on the way in which he has made his case. His motion states:

"cost was named by more disabled people than non-disabled people as a reason not to use the train in the 2021 Scottish Household Survey".

The points that he has made show very clearly why we need to ensure that we have a national policy.

As has been said, whether a visually impaired person and their companion can access fare-discounted rail travel depends on where they live. As charities such as Sight Scotland and Sight Scotland Veterans have said, there is a very strong and unarguable case for a national entitlement.

Freedom of information requests by Sight Scotland have revealed that, although most local authorities and Strathclyde Partnership for Transport offer free or discounted rail travel for blind or partially sighted people, only seven offer a discount to companions, and none offers free companion travel. Graham Simpson made that point fully and powerfully. The rules differ depending on where people live.

We believe that 25,000 people in the West Scotland region would be entitled to such travel if it was available in every local authority area—Russell Findlay mentioned that. Thousands of people in West Scotland are directly impacted. As we know, people with disabilities tend to be on lower incomes. Perhaps that explains why cost is often named as the factor that dissuades people from using rail, as Graham Simpson's motion mentions.

Strathclyde Partnership for Transport covers all of the West Scotland region. In the concessionary scheme, there is some support for companions on buses. A companion can travel free on buses, and they can travel on rail at half of the full fare if they have a national entitlement card. That is one of the better schemes. As has been said, there is no support at all for companions in many places in Scotland.

As we know, cost is only one of the factors that deter people from using rail—particularly people with disabilities, including blind people and people with sight problems. The accessibility of rail remains a significant issue. Earlier this year, ScotRail revealed to me that just a third of stations in the West Scotland region, which I represent, are deemed to be accessible. For example, Kilwinning railway station is considered to be accessible, but until very recently the lifts worked until only 4 o'clock in the afternoon. As a result of representations that my office made, they now work later in the day.

A third of stations are deemed to be accessible, but even that does not necessarily mean that they are fully accessible for everyone who might wish to use them. Only two stations in the West Scotland region are currently earmarked for access for all funding to improve accessibility. Cost is one factor, but it is clear that there are other factors that we as a Parliament and the Scottish Government need to address in order to make rail a real option for many people who are blind or have sight issues.

On a previous occasion, the cabinet secretary undertook to carry out a review of women's safety on public transport, and I know from discussions with her that that work has been taking place. Many of the issues that women face on public transport are very similar to those that are faced by people with sight issues and other disabilities.

The commitment to carry out a review of women's safety on public transport was made following a debate on the threatened closures of ticket and booking offices. We know that that is a live issue, not only in Scotland but throughout the United Kingdom. I understand that the Scottish Government is awaiting decisions from down south on what will happen to booking and ticket offices there. However, over many years now, we have seen booking offices close across the UK, which has had a significant and disproportionate impact on visually impaired and blind passengers.

**The Deputy Presiding Officer:** Ms Clark, you need to bring your remarks to a close.

**Katy Clark:** The debate raises wider issues about the accessibility of public transport and rail in particular, and I very much welcome that Graham Simpson focuses on cost in his motion.

The Scottish Government's accessible travel framework—

**The Deputy Presiding Officer:** You do need to conclude.

**Katy Clark:** The framework states as a vision:

"All disabled people can travel with the same freedom, choice, dignity and opportunity as other citizens".

I believe that we can make that a reality if we address the points that have been made in the debate.

17:11

**The Minister for Transport (Jenny Gilruth):** I congratulate Mr Simpson on securing the debate, which is on a hugely important topic that is close to my heart. As I was listening to the contributions from members, I recalled my grandmother, who was registered blind, and one of the campaigns that she undertook over the years to improve accessibility at Leuchars station. She was successful. It was a matter that was close to her heart, and something that she had to campaign and fight for tirelessly over the years.

As we have heard from a number of members, this debate is fundamentally important because ScotRail is now in public ownership, which needs to mean something for the communities that we all represent. We need to have a rail operator that listens to the people better. Mr Simpson will be aware of my views in that regard, and I hope that he and others across the chamber will contribute

to the national rail conversation when it launches in the coming weeks.

I will touch on some of the points that members made in the debate before I come to my response as minister. I emphasise that the inequity between rail and bus that was highlighted by Mr Simpson and Rona Mackay is not fair. However, it is worth saying that some local authorities have companion schemes, which we heard about from Ms Clark. West Lothian, Fife and Strathclyde all offer a 50 per cent discount. Mr Simpson highlighted that the inequity can lead to passenger confusion due to different approaches in different parts of the country, and I think that that has to change.

I met Sight Scotland earlier this year, not at Mr Simpson's behest but because I have grown up with members of my family who suffer from visual impairment. For that reason, I know how important it is that we get this right. Transport Scotland will provide me with further advice on the matter next week, following that meeting.

Last week, I met Seescape, which was formerly known as Fife Society for the Blind, in Glenrothes in my constituency, and I was very grateful to Lesley Carcary for taking the time to explain the challenges that are presented to the blind community, which has been particularly affected by the pandemic restrictions.

**Graham Simpson:** In her letter to me, the cabinet secretary said that she would take advice from Transport Scotland. What kind of advice is she expecting to get? Will it be advice on how to run a national scheme or something else?

**Jenny Gilruth:** I do not want to pre-empt the advice that I have commissioned from officials, but it will look, for example, at the cost of a national scheme, which has been touched on today. There is a contextualisation that I will present later in my speech in relation to the fair fares review, where this might also sit. It is important that we do not divorce the two topics, because the fair fares review looks at affordability across the public transport network. However, I take Mr Simpson's point on board.

Rona Mackay spoke about the importance of opening up a whole new world to the blind community, and I very much recognise that sentiment. Neil Bibby spoke about the social connectedness and opportunities to access employment that widening the scheme at national level would provide. Russell Findlay spoke about his visit to meet veterans with sight problems and the important work of Sight Scotland in that respect. I will not comment on the friendly fire that he mentioned, but I note that today's debate has been marked by a spirit of consensus on the need to do better.

Katy Clark referred to the important work that I have been progressing with Transport Scotland on women's safety on public transport. In the coming weeks, I hope to publish a report on new research that we commissioned earlier this year. It is important to say that there is absolutely a link between safety and accessibility in relation to rail, to which Ms Clark alluded.

It is also important to refer to the fact that the Citizen Participation and Public Petitions Committee has been taking evidence on the matter. I understand that, last week, the committee agreed to initiate inquiries via the local authorities that offer a discount scheme in order to consider uptake and the understanding of rail staff and passengers. I am keen to take on board some of the information that that committee is gathering in considering any advice that Transport Scotland officials provide me with in the coming weeks.

I listened carefully to the points that members from across the chamber made on the issue of access to the rail network. As a very regular user of the rail network, I see at first hand how passengers use it, and I see particularly its importance for connectivity. I agree with members that the current position of having different rail companion schemes across Scotland, as well as varying approaches across public transport, needs to be reviewed, and I can confirm that work will now be progressed as part of the fair fares review, which will include a review specifically on that issue. The review will report by early next year. I hope that that reassures Mr Simpson and other members about the importance that I give to the topic. It is absolutely essential that we get it right.

Although our main topic of discussion today has been the rail companion card scheme and we are probably united in our wish to see that review move forward, it is important to recognise our ongoing work on accessibility and the schemes that are available more broadly in that respect. The new station at Reston and the one at Inverness airport that will open very shortly are fully accessible stations that have been designed to the highest industry standards. Work continues in my constituency on the Levenmouth project, which will involve two new stations that will be open to passengers, which will also be fully accessible. We are working with our industry partners to deliver that multimodal transport system.

Additionally, Croy station, which is a busy station on the main Glasgow to Edinburgh line, has recently had a new footbridge and lifts installed, as has Johnstone station. Four more stations across Scotland—at Port Glasgow, Uddingston, Dumfries and Anniesland—will also benefit from step-free access by early 2024.

It is important to remind members that—at present, anyway—rail accessibility remains a

matter that is reserved to the United Kingdom Government. Nonetheless, we are pressing on with direct Scottish Government funding for accessibility improvements at Pitlochry, Kingussie, Aviemore, Nairn and Carstairs, which will again be completed by early 2024.

**Katy Clark:** The minister correctly pointed out that accessibility remains a reserved function. However, the fund that I mentioned seeks representations from the Scottish Government and Transport Scotland in relation to where money should be spent. As I said, there are only two bids in relation to West Scotland. Why are there not more representations in relation to upgrading and dealing with what is clearly a major problem?

**Jenny Gilruth:** Ms Clark highlights an important point about the role that Transport Scotland plays within the current framework. I am more than happy to ask my officials to meet the member to talk through the details of her region and how the scheme affects her part of Scotland. However, it is important to say that the scheme is reserved to the Department for Transport, although she is right that ministers in Scotland have a level of impetus in that we can share views on how the scheme is operated.

In Scotland, we have ScotRail's passenger assist service, which gives essential assistance to those who need help when they are travelling on the ScotRail network. Travellers in Scotland can book passenger assistance at one hour's notice, and it can be requested from ScotRail in a number of ways, which is hugely important for those who have a visual impairment. We also have the turn up and go service, which has been important in improving accessibility more broadly.

It is important that we recognise the accessibility challenges with some of our rolling stock and railway carriages. I have spoken about our commitment to the railway network, our work on the fair fares review and accessibility improvements to the railway network at stations, but the carriages that we travel in are also hugely important. I recognise that there is a level of challenge with carriage allocation in parts of the service. That is particularly an issue with the Fife services, but the challenge has been highlighted in other parts of Scotland, too.

In my meeting prior to the debate, I discussed that matter with Transport Scotland, and I have asked ScotRail for an update on it. In the post-pandemic world that we are living in, if folk are jammed into trains like sardines, that will not exactly encourage people out of their cars and back on to our railways. We need to encourage better carriage allocation, because that will better meet accessibility needs for all passengers.

If I may, Presiding Officer, I will say a final word about our national rail conversation. Very shortly, in the new year, I will set out the timescales for that important work, which I see moving forward in two distinct public-facing phases. That work will be critical in ensuring that voices across Scotland are heard and that they help to make railway services in Scotland fit for the future.

I thank everyone for participating in this well-considered and important debate. I thank Mr Simpson for bringing the issue to the chamber and emphasising the key role of rail in Scotland's connectivity and how we can consistently support the visually impaired.

**The Deputy Presiding Officer:** That concludes the debate.

*Meeting closed at 17:21.*



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