



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Meeting of the Parliament

**Thursday 28 September 2023**

**Session 6**



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Thursday 28 September 2023

## CONTENTS

	Col.
<b>GENERAL QUESTION TIME</b> .....	1
Avian Flu (Support for Poultry Farms).....	1
Innovation Centres (Funding).....	2
Scottish Education Exchange Programme (Update).....	3
Relationships, Sexual Health and Parenthood Education.....	5
Agricultural Equipment Theft.....	6
Violence in Schools (Summit).....	7
Screen Machine (Funding).....	8
<b>FIRST MINISTER'S QUESTION TIME</b> .....	10
Ovarian Cancer Services (Waiting Times).....	10
Cancer Treatment (Delays).....	13
Outdoor Swimming Sites (Contamination).....	16
Juryless Rape Trials.....	18
Antidepressants (Assessment of Use).....	20
Safer Drug Consumption Facility (Support for Pilot).....	22
Infrastructure Investment.....	23
Ayr Station Hotel Fire.....	24
Reinforced Autoclaved Aerated Concrete (Tillicoultry).....	25
A96 Dualling.....	25
Fatalities on Scotland's Roads.....	26
Rosebank (Licensing).....	27
<b>POINT OF ORDER</b> .....	28
<b>ALCOHOL AND DRUG DEATHS ("SEE BEYOND—SEE THE LIVES—SCOTLAND" CAMPAIGN)</b> .....	30
<i>Motion debated—[Miles Briggs].</i>	
Miles Briggs (Lothian) (Con).....	30
Stephanie Callaghan (Uddingston and Bellshill) (SNP).....	32
Jamie Greene (West Scotland) (Con).....	34
Monica Lennon (Central Scotland) (Lab).....	36
Beatrice Wishart (Shetland Islands) (LD).....	38
Finlay Carson (Galloway and West Dumfries) (Con).....	40
Carol Mochan (South Scotland) (Lab).....	41
The Minister for Public Health and Women's Health (Jenni Minto).....	43
<b>PORTFOLIO QUESTION TIME</b> .....	47
<b>TRANSPORT, NET ZERO AND JUST TRANSITION</b> .....	47
Network Rail (Meetings).....	47
Multimodal Smart Card.....	49
Fort William (Integrated Transport Plan).....	50
Congestion Charging Schemes.....	51
Just Transition (North-east Stakeholder Discussions).....	52
Sheriffhall Roundabout (Objections).....	55
A82 (Improvements Appraisal).....	56
A96 (Safety Improvement Works).....	56
<b>SCOTLAND'S FUTURE ENERGY SYSTEM</b> .....	58
<i>Statement—[Gillian Martin].</i>	
The Minister for Energy and the Environment (Gillian Martin).....	58
<b>TRUSTS AND SUCCESSION (SCOTLAND) BILL: STAGE 1</b> .....	70
<i>Motion moved—[Siobhian Brown].</i>	
The Minister for Victims and Community Safety (Siobhian Brown).....	70
Stuart McMillan (Greenock and Inverclyde) (SNP).....	73
Oliver Mundell (Dumfriesshire) (Con).....	77
Michael Marra (North East Scotland) (Lab).....	79
Bill Kidd (Glasgow Anniesland) (SNP).....	81
Stephen Kerr (Central Scotland) (Con).....	83
Keith Brown (Clackmannanshire and Dunblane) (SNP).....	85

Martin Whitfield (South Scotland) (Lab) .....	87
Willie Coffey (Kilmarnock and Irvine Valley) (SNP) .....	88
Maggie Chapman (North East Scotland) (Green) .....	90
Emma Harper (South Scotland) (SNP) .....	91
Michael Marra .....	93
Jeremy Balfour (Lothian) (Con) .....	95
Siobhian Brown.....	98
<b>DECISION TIME</b> .....	102

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# Scottish Parliament

Thursday 28 September 2023

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

## General Question Time

### Avian Flu (Support for Poultry Farms)

#### 1. Tess White (North East Scotland) (Con):

To ask the Scottish Government what action it is taking ahead of the festive period to support poultry farms, in light of the potential threat of avian flu. (S6O-02576)

**The Minister for Energy and the Environment (Gillian Martin):** Since the commencement of the current avian influenza outbreak, the Scottish Government has continued to promote best-practice biosecurity measures for bird keepers that are designed to protect their poultry premises from highly pathogenic avian influenza. The Scottish Government has robust and tested contingency plans and, where outbreaks have occurred, the Government's response has been immediate. All appropriate disease control measures and veterinary investigations have been applied, with the aim of preventing further spread of the virus. Owners who have been impacted have received guidance and support, including financial compensation.

**Tess White:** There have been five outbreaks of avian flu in Aberdeenshire since July and, earlier this month, 1,500 birds were killed near Peterhead. It is no wonder that NFU Scotland has described the situation as very worrying and said that it remains a serious concern. Will the minister reassure poultry farmers that the Scottish Government will consider all safeguards against avian flu ahead of the festive period, including housing orders for commercial stocks?

**Gillian Martin:** I thank Tess White for her interest in this extremely serious issue. The risk to wild birds and poultry is constantly monitored and assessed by scientific and technical experts and is reviewed on a weekly basis jointly by the chief veterinary officers of the United Kingdom.

The risk to wild birds remains high, while the risk to poultry is low, and biosecurity plays a crucial part in that assessment and is the single most important factor that is under bird keepers' control. Tess White is absolutely right that biosecurity will be particularly important as uncertainty rises when we enter the winter period. It has been quite unusual to have avian flu in the summer months, and we are entering the period when migratory birds return, which increases the risk.

If the risk to poultry from wild birds increases to a certain level, Scottish ministers may consider the introduction of mandatory biosecurity measures through the declaration of an avian influenza prevention zone. On its website, the Scottish Government provides advice on how to maintain good biosecurity standards.

### Innovation Centres (Funding)

2. **Ivan McKee (Glasgow Provan) (SNP):** To ask the Scottish Government when it will announce funding for its innovation centres. (S6O-02577)

**The Cabinet Secretary for Education and Skills (Jenny Gilruth):** Scotland's innovation centre programme forms an important part of our knowledge exchange and innovation ecosystem by enhancing innovation and entrepreneurship across Scotland's key economic sectors. For phase 2 of the programme, the Scottish Government has invested £80 million via the Scottish Funding Council and enterprise agencies, which will support the innovation centres until 2024.

My officials advise me that the SFC has carried out an assessment process to determine future funding. That will ensure the innovation centre programme's sustainability in the long term and maximise the value that public investment delivers to the research and innovation landscape.

I am advised that the SFC updated centres on the outcome of the assessment process on Friday 22 September. Now that the assessment is complete, the SFC and other funders will work with the centres on the next steps.

**Ivan McKee:** As the cabinet secretary indicated and the Government's innovation strategy recognises, Scotland's innovation centres are a critical part of our economic landscape. They support economic development in key sectors where Scotland has a genuine competitive advantage, including precision medicine, aquaculture, industrial biotechnology and sensor technology.

I am slightly concerned that an education minister rather than an economy minister is answering my question. Does that indicate that the Government regards innovation centres as an academic rather than an industrial asset? What reassurance can the cab sec give that a coherent economic strategy and the imperative to press home our global advantage in key sectors will inform decisions that are made on the future of innovation centres?

**Jenny Gilruth:** As Ivan McKee knows, and as he alluded to, Scotland's innovation strategy outlines the critical role that the further and higher education sectors play in promoting innovation. In

addition, I recognise that the funding is provided by the Scottish Funding Council, which is why this response comes from me, as education secretary.

More broadly, our innovation centres build transformational collaboration between business, universities, colleges and others to capitalise on Scotland's world-leading research. To my mind, that is not a binary education or economy matter, because the two are inherently linked.

The SFC assessment process looked at alignment with the national strategies and priorities, including the innovation strategy and the national strategy for economic transformation. That is designed to ensure that innovation centres continue to operate not as either industry or academic assets, as the member alluded to, but rather as truly national assets to maximise impact for Scotland. Notwithstanding that, I am due to meet the SFC shortly and I will ensure that the coherence that Mr McKee spoke to is at the heart of the decision-making process.

**Murdo Fraser (Mid Scotland and Fife) (Con):** Last week, at the Economy and Fair Work Committee, Professor Sir Mike Ferguson from Dundee highlighted the issue of innovation in the life sciences sector, but also expressed his concern that start-ups in that sector are having real difficulties in accessing capital. He said that he could see a role for the Scottish National Investment Bank in providing that capital. Does the cabinet secretary agree with that?

**Jenny Gilruth:** I suspect that an economy minister might be better suited to give a response to Murdo Fraser's question, and I will ask the suitable minister to write to him.

### **Scottish Education Exchange Programme (Update)**

**3. Rona Mackay (Strathkelvin and Bearsden) (SNP):** To ask the Scottish Government whether it will provide an update on the roll-out of the Scottish education exchange programme initial test and learn project this year. (S6O-02578)

**The Cabinet Secretary for Education and Skills (Jenny Gilruth):** Over the summer, officials have been working with partners across the education sector to develop the test and learn project of the Scottish education exchange programme. The programme is intended to replace some aspects of the Erasmus+ programme, as the hard Brexit, which is supported by Westminster parties, continues to rob young people in Scotland of opportunities.

The test and learn project will open for applications in October. The Minister for Further and Higher Education wrote to the Education, Children and Young People Committee yesterday with more detailed information on the programme.

**Rona Mackay:** Can the cabinet secretary assure Bishopbriggs academy in my constituency of support to continue its German educational trainee programme, given the impact of Brexit, the withdrawal of Erasmus+ and visa challenges for the academic year 2023-24? Is she open to meeting the school's staff for further discussion on that?

**Jenny Gilruth:** The German educational trainee programme has been a valuable resource to a number of schools. Languages assistants are a tremendous asset for our schools; they enrich language and cultural learning, and encourage young people to widen their cultural horizons. However, as I alluded to, the United Kingdom Government's disastrous hard Brexit means that we now have fewer languages assistants in our schools, and it is harder for our school pupils to go on school exchanges because, for example, of the ending of free movement.

The impact of Brexit continues to curtail opportunities for young people in Scotland and across the UK. For example, Scotland benefited hugely from Erasmus+, and proportionately more students from Scotland than from any other country in the UK took part in it. I hope that a long-term solution can be found to allow schools to continue their work with GET in the future. I am more than happy to visit Bishopbriggs academy in Ms Mackay's constituency to further understand the importance of the GET programme and to make direct representations to the UK Secretary of State for Education on that matter.

**Willie Rennie (North East Fife) (LD):** Before the Scottish National Party gets too carried away, that is funding of £1 million compared with the Welsh programme, which has £65 million. Surely that is just a fig leaf to hide the embarrassment of the SNP's failure to deliver on a replacement for Erasmus+.

**Jenny Gilruth:** Of course, we will engage with our Welsh colleagues, as the committee has done directly on that matter, but I find it somewhat perplexing that Mr Rennie—whose party, as I understand it, now supports a hard Brexit—is advocating for additional funding for a policy that his party does not agree with. I am not necessarily convinced of the intent behind the question.

It is worth my while to point out that the investment is coming from the Scottish Government at a time when our young people have been deprived of opportunities because of Brexit. I hope that Mr Rennie's party will reconsider its position on Brexit and that we can work together to encourage the UK Government to think again in relation to Erasmus+.

## Relationships, Sexual Health and Parenthood Education

**4. Ross Greer (West Scotland) (Green):** To ask the Scottish Government how it ensured that the views and experiences of young people, in particular LGBTQ young people, were reflected in the new draft “Guidance on the Delivery of Relationships, Sexual Health and Parenthood (RSHP) Education in Scottish Schools”. (S6O-02579)

**The Cabinet Secretary for Education and Skills (Jenny Gilruth):** The views and experiences expressed by children and young people through the Young Scot and Scottish Youth Parliament reports on personal and social education have informed the work to develop the revised draft statutory RSHP teaching guidance. The draft guidance was influenced by the work of the LGBTI inclusive education working group and a wide range of other stakeholders.

The Scottish Government is currently consulting publicly on the revised draft guidance. That includes specific engagement to gather views of young people on whether the revised teaching guidance meets their learning needs. Officials will take account of that activity in developing the final version of the teaching guidance, which is due to be published in the new year.

**Ross Greer:** I was on the then Education and Skills Committee when we received evidence from queer young people in particular, who told us that they had resorted to watching pornography to learn about sex because the education that they received in school was so poor and not remotely LGBTQ inclusive.

The new draft relationship, sexual health and parenthood guidance is a vast improvement on its 2014 predecessor in relation to LGBTQ inclusion and key themes such as consent. That is to the credit of young people in groups such as the Scottish Youth Parliament and the Time for Inclusive Education campaign. LGBTQ young people were key to producing the draft, and having their confidence will be key to its successful delivery. How is the Government maximising opportunities for them to provide final feedback during the consultation phase before it is put into use?

**Jenny Gilruth:** I am grateful to Ross Greer for his support in the development of the revised guidance. As I mentioned, we are running an engagement project to gather young people’s views. The Scottish Youth Parliament and Young Scot will facilitate face-to-face sessions with representative groups of young people and run a survey to seek their views on the revised guidance. That will run in tandem with the public consultation and will be reflected in the final

version of the teaching guidance, which will be published in the new year.

LGBT young people are also encouraged to contribute where they can or to engage with representative organisations such as LGBT Youth Scotland, Stonewall Scotland or LGBT Health and Wellbeing to help them to contribute to the consultation.

I was pleased to see some of the benefits of the TIE campaign’s hard work when I visited Castleton primary school recently. I was delighted to make a presentation to Castleton to mark its achievement of becoming the first school in Scotland to successfully and fully implement LGBT-inclusive education. I enjoyed seeing the young people’s pride in showing me how their school is an inclusive and supportive environment for all their pupils.

## Agricultural Equipment Theft

**5. Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con):** To ask the Scottish Government what its position is on whether equivalent measures in Scotland are needed to those introduced in England and Wales by the Equipment Theft (Prevention) Act 2023, in light of reports of a recent spate of thefts in the Scottish Borders. (S6O-02580)

**The Cabinet Secretary for Justice and Home Affairs (Angela Constance):** The theft of agricultural plant and machinery is a significant concern to our rural communities and it can have serious consequences for the agricultural sector in terms of cost and confidence. We continue to work with the Scottish Partnership Against Rural Crime and others in our efforts to tackle organised crime and the serious harm it causes to our communities.

**Rachael Hamilton:** Although Scotland has seen a decrease in the cost of rural crime, we cannot stand still. World events have triggered new illicit markets, creating more demand for stolen machinery. Thefts of quad bikes, trailers, farm machinery and GPS trackers are hitting our rural communities hard.

Westminster’s Equipment Theft (Prevention) Act 2023 was welcomed with open arms by victims of such crime. Will the cabinet secretary support my plans to introduce a similar bill here in Scotland?

**Angela Constance:** Rachael Hamilton is quite correct to say that, despite the decrease in the cost of such crime to Scotland, we cannot and must not stand still. I am sighted on the fact that this type of theft has obvious links to serious and organised crime. I look forward to the member publishing her rural theft bill.

I reassure Rachael Hamilton that we are looking closely at the private member's bill that was recently passed at Westminster. The 2023 act now has royal assent and will come into force south of the border in six months. The relevant secretary of state will be able to introduce regulations, which we will look at closely to see how they will inform our thinking for Scotland.

**Audrey Nicoll (Aberdeen South and North Kincardine) (SNP):** What is the cabinet secretary's response to the latest set of statistics, which show that recorded crime is at one of its lowest levels in 50 years?

**Angela Constance:** The continued low levels of crime are due to the efforts of the police and justice and community safety partners to deliver safer communities and, of course, to our investment in the justice system.

With recorded crime remaining at one of the lowest levels seen since 1974, the latest figures show reductions in crimes including violence, damage and reckless behaviour. Nonetheless, we continue to focus on crime prevention, reducing reoffending and supporting victims of crime.

#### Violence in Schools (Summit)

**6. Fulton MacGregor (Coatbridge and Chryston) (SNP):** To ask the Scottish Government whether it will provide an update on the recent summit on tackling violence in schools. (S6O-02581)

**The Cabinet Secretary for Education and Skills (Jenny Gilruth):** As I confirmed in the chamber last week, there are multiple strands to the behaviour in schools summit. In June, I convened the first meeting of the headteacher task force, which focused on issues surrounding school exclusion. On 5 September, I chaired a summit that focused on recording and monitoring of incidents in schools—an area of concern that was raised during a recent parliamentary debate. The next two events are scheduled for October and November.

That approach enables engagement with a wide range of stakeholders so that we hear and learn from the broadest possible range of interests and experiences. It also allows for the key issues to be explored in depth and for the work to be informed by evidence from the behaviour in Scottish schools research, which will be published in November.

**Fulton MacGregor:** I appreciate the cabinet secretary's having taken the time yesterday to chat with me about this constituent issue. She will be aware that an assault on a teacher took place in Coltness high school this month. Although the school is outwith my constituency of Coatbridge and Chryston, the victim is a constituent of mine

and has asked me to raise her case in our Parliament. I am told that it was a very serious assault, and my constituent is still off work. I know that the vast majority of pupils in Scotland are not likely to commit such acts.

What assurances can the Scottish Government give that the recent summit looked carefully at violence against teachers as well as pupil-on-pupil violence? What further policy implementations can be introduced to prevent others experiencing what my constituent did?

**Jenny Gilruth:** I am very sorry to hear about the incident that Mr MacGregor has outlined. Although I cannot comment on the specifics of the case in question, no teacher should suffer verbal or physical abuse in their place of work. The work of the behaviour and relationships summit is concerned with ensuring that our schools are safe and consistent environments for all—staff as well as pupils.

The next two events, which will take place in October and November, will have a particular focus on that issue. The November summit will benefit from research from the behaviour in Scottish schools research programme. The BISA research will give us an accurate national picture on behaviour in Scotland's schools. It is important that we have that granular detail; press reports are no substitute for it. We also need to be mindful of the on-going impacts of the pandemic on behaviour and relationships in our schools.

The BISA research and the wealth of feedback that we are gathering as part of the summit process will give us the evidence base to ensure that the right support is in place in our schools to respond to the concerns that have been raised.

#### Screen Machine (Funding)

**7. Liam McArthur (Orkney Islands) (LD):** To ask the Scottish Government whether it has plans to engage with Regional Screen Scotland regarding its call for funding for a new Screen Machine vehicle, in light of concerns that a lack of funding could lead to the end of the service. (S6O-02582)

**The Cabinet Secretary for Constitution, External Affairs and Culture (Angus Robertson):** Yes, I do have such plans. I will meet Regional Screen Scotland on 5 October to hear directly about the challenges facing the future of Screen Machine. I recognise the valuable role that Screen Machine plays in bringing cinema to rural communities for which access to culture is limited, and I note the £176,000 funding that Screen Scotland provided to Screen Machine earlier this year, which is allowing Screen Machine to lease a temporary replacement cinema until April 2024.



**Liam McArthur:** Yesterday, the First Minister told the Conveners Group about the importance of opening up cultural opportunities to people and communities around Scotland. Over the past 25 years, Screen Machine has done just that in the Highlands and Islands.

I declare an interest, having sat in the Screen Machine vehicle outside Sanday school—on one of the north isles of Orkney—watching George Clooney battle “The Perfect Storm” while an actual storm raged outside. It was one of those cinematic experiences that one does not forget.

I welcome the engagement that the cabinet secretary has had, but I encourage him to further support the future of that valuable cultural asset to the Highlands and Islands.

**Angus Robertson:** I thank Liam McArthur for sharing the positive impact of mobile cinema in the communities that he represents in Orkney. I encourage any other colleagues from across the chamber who have had similar experiences—I am sure that there are many of them—to be so kind as to forward information to me on that before the meeting that I hold at the beginning of next month. Those experiences will be very material to the discussions that we are having about the future of the Screen Machine service, which is much valued.

**Alasdair Allan (Na h-Eileanan an Iar) (SNP):** Screen Machine is a much-cherished service, as we have heard, for people who would otherwise have to travel hundreds of miles to get to a static cinema. Does the cabinet secretary share my view that that popular and well-used cultural service must be able to access the relevant support to commission a new greener vehicle that will allow it to visit our rural and island communities?

**Angus Robertson:** I am absolutely clear on the value that Screen Machine brings to the communities that it visits, including the Western Isles, the esteem that its audiences hold it in and its contribution to cutting carbon emissions through reducing audience travel. All those matters will be subjects at the meeting that I will hold early next month.

**The Presiding Officer:** That concludes general question time.

Before we move to First Minister’s questions, I invite members to join me in welcoming to the gallery His Excellency Mr Vikram Doraiswami, who is the High Commissioner of India to the United Kingdom. *[Applause.]*

## First Minister’s Question Time

12:00

### Ovarian Cancer Services (Waiting Times)

**1. Douglas Ross (Highlands and Islands) (Con):** This week, Margaret McColl, who is from Lanarkshire, described her ordeal when she was diagnosed with ovarian cancer. She faced a three-month wait for national health service treatment in Scotland. However, Margaret did not know if she had that long, so she used £27,000 of her life savings for faster private treatment in England. She said:

“Cancer kills if left untreated and the Scottish Government is allowing this to happen. We shouldn’t have to go to London or elsewhere.”

First Minister, Margaret is right, isn’t she?

**The First Minister (Humza Yousaf):** Margaret is right that nobody should have to feel that their only option is to pay privately and to go anywhere outside Scotland for cancer treatment. I pass on my sympathy to Margaret for the unacceptable ordeal that she has had to go through.

I will try to give some context. I know that Douglas Ross and others in and outside the chamber are aware of the significant impact that the Covid pandemic had on our health services across the United Kingdom, including on cancer services. One of the most difficult decisions that the Government had to take during that Covid period was to have to pause cancer screening for a number of months; we are still dealing with the impacts of that difficult decision.

On ovarian cancer more specifically, let me try to offer some assurance, if I can. The latest figures show that, in Scotland, 94.7 per cent of women—more than nine out of 10—are receiving their first treatment for ovarian cancer within 31 days of a decision to treat. However, in those situations where that is not happening or, in Margaret’s case, has not happened, I fully accept Douglas Ross’s proposition that that state of affairs is not acceptable.

**Douglas Ross:** The First Minister has mentioned Covid, as I thought he would. However, they had Covid in England as well, where Margaret got treatment because she could pay £27,000 for it—she went south of the border to get it.

The First Minister wanted to offer his reassurance to ovarian cancer sufferers. Target Ovarian Cancer has said that

“Scotland has one of the worst survival rates in Europe”.

People need urgent treatment to save their lives but, in the Scottish National Party-run NHS, they wait months. Margaret is worried about what happens if her cancer comes back, and she is also worried for people who do not have life savings to pay for treatment. Public Health Scotland statistics show that people from the most deprived areas of Scotland are 74 per cent more likely to die from cancer than people in wealthier areas. What are people meant to do if they get cancer but cannot afford to go outwith Scotland for treatment?

**The First Minister:** The NHS in Scotland will be there to assist and treat where it possibly can. Unless I misunderstood Douglas Ross—I am willing to correct the record if I did—Margaret went for private treatment in England, but NHS services in England have been impacted, too, as have the services in NHS Wales and undoubtedly in NHS Scotland.

Douglas Ross is absolutely within his rights to ask the question around ovarian cancer, and I am more than happy, given the time limits that we have in First Minister's question time, to write to him with far more detail. We are taking the specific issue of ovarian cancer with the utmost seriousness.

The Scottish cancer network will establish a new ovarian cancer clinical network, which will ensure equity of access to treatment for all women with ovarian cancer. That is specific to the point that Douglas Ross raised about the inequality that might exist in relation to accessibility of services.

We have also committed £10.5 million to help health boards to improve their capacity and access to systemic anti-cancer therapy by 2027; £3 million of that additional funding has been released this year. As I said, I could give a lot more detail about what we are doing specifically on ovarian cancer but, in the interests of brevity, I will write to Douglas Ross with that further detail.

**Douglas Ross:** I will welcome that response when it comes, and I will share it with another member of the public to whom we have spoken. Irene Hartshorn from Ayr was told that she needed to wait 12 weeks for ovarian cancer surgery. She told us this morning:

"I felt powerless ... you know that all the time the illness is getting worse and worse. If I had waited, I think I would be dead by now."

Her sister paid for her to get treatment in London, but Irene wanted us to ask the First Minister why the resources are not in place in Scotland for the treatment that she had to go south of the border for.

**The First Minister:** We are investing in our national health service, which is why, this year, we gave an additional £1 billion to the health service, taking investment to £19 billion. We are investing

not just in the health service but, importantly, in the people who provide the treatment. That is why we did everything that we possibly could do to ensure that they are paid fairly and that the NHS did not lose any days to industrial action.

Since the SNP took power, there has been an almost 100 per cent increase in the number of consultant oncologists. We are investing in the individuals in our health services, we are investing in ensuring early detection of cancer with our rapid cancer diagnostic services and, specifically on ovarian cancer, which is the issue that Douglas Ross has raised, we are seeking to explore what more we can do for faster treatment.

I go back to the latest statistics that were published and, although I fully accept that they will be cold comfort for those who have already had to pay for treatment, I hope that they provide some level of reassurance. They show that 94.7 per cent are receiving their first treatment for ovarian cancer within 31 days of a decision to treat. We want to consider what more we can do to improve that figure further.

**Douglas Ross:** Those answers will be bitterly disappointing for Margaret and Irene and the hundreds of others who are so distressed at having to pay so much money to go outwith Scotland to get their treatment.

The experts are echoing what the patients are telling us. Dr Hume of Cancer Research UK says that the problems in cancer care are fixable if the new cancer strategy is "fully funded and implemented" now, but the evidence shows that the resources are not in place. Official statistics that came out this week show that one in 4 Scottish patients who are suspected of having cancer does not start their treatment within the 62-day target. A new freedom of information request that we have had answered shows that, this year, one patient in NHS Grampian has waited 156 days, which is more than five months, to start chemotherapy.

Humza Yousaf was health secretary for two years and cancer waiting times grew. He is now the First Minister, so what is he going to do to sort it out?

**The First Minister:** As I have referenced, the 31-day cancer stat has improved on that of the previous quarter. I hope that that shows that we are on a journey of recovery. We have to accept that recovery will take a number of years.

Douglas Ross made a few points that I agree with when he was speaking on behalf of those who work in the NHS who say that the 10-year cancer strategy that we have published must be fully funded. We agree. We accept that very point. That is why, for example, this year we have increased our investment in the health service

substantially and, later this year, we will give Parliament an update on our 2024-25 budget. I fully accept the premise that the strategies that we set up must be funded.

I also accept that we must improve the figures for the 62-day target. There is no doubt that they were affected by the pandemic but, to be frank, there were challenges with the 62-day target before the pandemic, which is why the cancer strategy will seek to target those cancer types for which we struggle to reach the 62-day target.

From a Scottish Government perspective, we will continue our record investment in the NHS, we will make sure that our staff are paid fairly and we will make sure that we continue to have adequate staffing in our health service. I give an absolute assurance, not just to Douglas Ross but to everyone who is watching or listening, that the treatment of cancer—early diagnosis and early treatment—is an absolute number 1 priority for the Government that I lead.

### **Cancer Treatment (Delays)**

**2. Anas Sarwar (Glasgow) (Lab):** Cancer remains Scotland's biggest killer, and we know that there is a direct link between speed of diagnosis, treatment and survival rates.

This week, statistics revealed that one in four cancer patients had faced delays in treatment—that is 1,130 people starting treatment late in the past three months alone. Every one of those people is a son or daughter; every one of them is a loved one—someone who is loved by a family waiting anxiously. In fact, none of Scotland's health boards met the 62-day standard for starting cancer treatment.

Macmillan Cancer Support has warned that

“staff are being stretched to breaking point”,

and Cancer Research UK called the delays “unacceptable”, so does the First Minister agree with the experts, or has his Government become complacent in the fight against Scotland's biggest killer?

**The First Minister (Humza Yousaf):** We absolutely have not become complacent. I hope that we can demonstrate that through the work that we have done with key stakeholders in relation to the cancer strategy.

Douglas Ross and Anas Sarwar are absolutely right to raise what is a crucial issue for people right across Scotland. Let me, in turn, try to give some assurances that we are recovering from a global pandemic. That global pandemic has absolutely had an impact, not just on our health service but on our cancer services.

However, when I look at the statistics on the 62-day pathway, I see that we are treating 41.2 per cent more patients on that pathway than we did 10 years ago, and when I look at the 31-day pathway, on which there has been an improvement, I see that we are treating 19.6 per cent more patients than we did 10 years ago. We are seeing more patients—the throughput has increased over the past decade. We are not complacent—it is clear that there is more to do, particularly around the 62-day pathway.

Anas Sarwar also raised the importance of diagnostic waiting times. Again, the latest statistics show an improvement in that regard. We are not complacent, and we will continue to invest. As I have said, we will continue to invest in ensuring that we have an adequate number of staff so that we can get people into treatment as early as possible.

**Anas Sarwar:** Covid started three years ago. This Government has not met the 62-day standard for 11 years—so cut the complacency and cut the excuses. We know that every delay risks lives, and we know that the number of cancer deaths is higher than it should be. So far this year, there have been 398 more cancer deaths than experts would have expected. Those deaths were avoidable and unnecessary.

This week, it was also revealed that life expectancy in Scotland has dropped again; it has fallen back to a level that has not been seen for more than 10 years. There is no starker indication of failure than that. Therefore, will the First Minister take the opportunity to apologise for the lost decade on the Scottish National Party's watch?

**The First Minister:** When people do not get treatment as quickly as they should or when targets are missed, of course the Government apologises—we have deep regret when that is the case.

Anas Sarwar forgets to mention what has happened over the past decade—we have had more than a decade of Westminster austerity. *[Interruption.]* Every external organisation that has an interest in poverty will tell you—

**The Presiding Officer (Alison Johnstone):** Members!

**The First Minister:** —that poverty is a clear determinant of, and a clear factor in, health inequality. We will do our best to try to mitigate the impact of that Westminster austerity. We have put hundreds of millions of pounds from our budgets on the table to protect people from that Westminster austerity.

With regard to what we are doing in relation to the national health service, I go back to the central

point that we are putting in record investment. We are ensuring that we pay our staff fairly, which is why there have not been strikes in Scotland, when there have been strikes in health services across the United Kingdom, including in Wales and in England. We will continue to invest in our staff to ensure that patients get the treatment that they deserve as quickly as possible.

**Anas Sarwar:** The First Minister does not need to persuade me about how woeful the UK Tory Government is. However, that does not excuse the woeful record of this SNP Government over the past 16 years. Every cancer delay raises the chance of avoidable death, which is why patients should be diagnosed and start treatment within 62 days.

A freedom of information request has revealed the dire reality for too many patients. Some cancer patients have waited 191 days for diagnosis and treatment; a cervical cancer patient waited 217 days; a prostate cancer patient waited 334 days; and there was even a cancer patient who waited 385 days for diagnosis and to start treatment. The First Minister cannot blame someone else for that; that is the SNP's record. That cancer patient had more than a year of anxiety before getting the help that they needed.

Why can the First Minister not see what many members on the SNP benches can see: that the SNP has lost its way and got complacent and no longer puts the interests of the Scottish people first?

**The First Minister:** That is simply untrue, which is why, when it comes to who is trusted with the NHS, we tend to leave the verdict to the people of Scotland. Time and again, the people of Scotland have given the verdict to the SNP. *[Interruption.]* I can hear Anas Sarwar shouting something about polls. In most relevant polls, if not every single one of them, the SNP continues to lead Labour and other political parties. The reason for that, after 16 years in government, is our stewardship—*[Interruption.]*

**The Presiding Officer:** Members!

**The First Minister:** —of vital public services such as the national health service.

I remind Anas Sarwar of a couple of points. I do not disagree with the central premise, which neither he nor Douglas Ross have raised, that there has to be improvement on the 62-day standard. I agree with and accept that. There has obviously and undoubtedly been an impact from Covid on it but, as things stand, we have seen an improvement on the 62-day standard compared with the previous quarter. More than seven out of 10 patients are starting treatment within 62 days, but that has to be improved. There is no

complacency. In relation to the 62-day standard, the median wait was 49 days.

We will continue on the journey of recovery, we will continue to invest in our health service and staffing, and we will continue to do what we can to ensure that patients and the public are seen and treated as quickly as possible.

### Outdoor Swimming Sites (Contamination)

**3. Liz Smith (Mid Scotland and Fife) (Con):** To ask the First Minister what action the Scottish Government is taking in response to reports of widespread contamination at many of Scotland's outdoor swimming sites. (S6F-02404)

**The First Minister (Humza Yousaf):** I take some exception to the use of the term "widespread". The Scottish Government is committed to improving water quality in bathing waters across Scotland. Recent reporting of the statistics has not interpreted the Scottish Environment Protection Agency's bathing water monitoring data correctly. Since we introduced more stringent European standards in 2015, we have worked with SEPA, Scottish Water and key stakeholders to ensure that more bathing waters than ever before are classified as good or excellent, with 98 per cent now meeting water quality standards. Scottish Water is working to install monitors on all its sewer outfalls in or near bathing waters to provide near-real-time spill data by December 2024. Those actions will help to inform bathers and support SEPA and Scottish Water's work to prioritise investment where it will most benefit our environment and communities.

**Liz Smith:** I am a bit surprised by that answer. The most recent investigations at Lower Largo in Fife tell us that it is the most polluted beach in Scotland. It has breached the regulations on seven occasions so far in 2023 and, on three occasions, it was at 50 times the contamination limit, which is a very serious health hazard. What will the Scottish Government do to increase the frequency of checks on those beaches?

In addition, is the First Minister as concerned as I am about the number of community swimming pool closures, given that such pools are seen by many families as a safer alternative just now?

**The First Minister:** The situation in Lower Largo is serious, but my understanding is that there are identified reasons for that potential contamination. I know that it is an issue that Scottish Water and SEPA are looking at seriously. I am happy to write to Liz Smith, or ensure that the appropriate cabinet secretary writes to her, with the detail of what actions are being taken on that specific example.

However, I return to the reason why I took exception to Liz Smith suggesting that

contamination is widespread, which is that 98 per cent of Scotland's bathing waters currently achieve the bathing water quality standard, with more being rated excellent than ever before. We have good monitoring and good-quality water in Scotland.

As I said, on the specifics of Lower Largo, I am more than happy to write to Liz Smith with the detail.

**Willie Rennie (North East Fife) (LD):** I am astonished by the First Minister's answer, which is astonishingly complacent when 50 out of 89 of the most popular beaches in Scotland fail to meet the standard for safe bathing. That should ring an alarm bell for the First Minister. When will he implement the proper measurement of all sewage outflows and when, at last, will he set legally binding targets to end sewage dumping?

**The First Minister:** That is an issue that Scottish Water and SEPA take seriously. In previous First Minister's question times, I have given answers about how, for example, water and sewage outflows are being monitored in a comprehensive programme that has cost considerable amounts of public investment and has been under way for a number of years. There is action to increase that monitoring in the time to come and I am happy to give Willie Rennie more detail about that.

No one is complacent. I fully accept that there are particular instances that must be investigated and where action must be taken, but I return to the point that 98 per cent of bathing waters currently achieve the quality standard, with more being rated as excellent than ever before. Regarding the specifics that Willie Rennie raises, I am more than happy to provide him with detailed answers about what further monitoring is expected to take place.

**Foyso Choudhury (Lothian) (Lab):** I have previously raised the issue of sewage contamination in Scotland's water, notably in the Water of Leith in my region, and have asked the Scottish Government for a meeting. In August, the cabinet secretary advised me that she did not think that a meeting would be useful. Given the clear severity of the issue across Scotland, will the cabinet secretary now agree to meet urgently with me?

**The First Minister:** I am more than happy to consider that meeting and to ensure that the cabinet secretary considers it.

On outflow monitoring, Scottish Water carried out a comprehensive and Scotland-wide environmental study programme to assess the impacts of its assets on water quality during the period 2015 to 2021. Scottish Water invested £40 million during that period and the computer model that it developed allows it to understand when

combined sewer outflows will spill and under what rain conditions, and the impact that those spills will have on the environment. SEPA regularly monitors the water environment to ensure that it is not impacted by sewage spills. In 2019, it took 19,000 monitoring samples across Scotland to safeguard the quality of our rivers, lochs and coastal areas.

There is significant monitoring of those overflows, but, given Foyso Choudhury's question, I am more than happy for the Government to consider a meeting if he would find that useful.

### Juryless Rape Trials

**4. Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** To ask the First Minister what the Scottish Government's response is to some members of the judiciary expressing opposition to juryless rape trials. (S6F-02405)

**The First Minister (Humza Yousaf):** The Victims, Witnesses, and Justice Reform (Scotland) Bill includes proposals for a time-limited pilot of judge-only rape trials. The response by the senators of the College of Justice clearly shows that they have split views on the proposal. We know that organisations including Rape Crisis Scotland, Victim Support Scotland and Scottish Women's Aid support the pilot. They, like many, are concerned by the experiences of complainers, the influence of rape myths and the lower conviction rates for rape.

The senators' response states that there is

"a serious problem with what happens in a jury trials for rape" cases.

The pilot stems from the recommendations made by Lady Dorrian, whom Christine Grahame will be aware is Scotland's second most senior judge, as part of her review and report into how we can improve the justice system, particularly for victims and survivors of rape, while also—this is crucial—protecting the rights of the accused.

**Christine Grahame:** I, too, have read the submission from the senators, both those in favour and those against. I am not quoting, but I will paraphrase it. The evidential difficulty that most alleged victims and the accused were in a relationship, sometimes even after the alleged crime, may be an influence on the low conviction rate, no matter what we do. The right to a fair trial under the European convention on human rights, as far as that may affect the accused, is embedded in the Scotland Act 1998.

Crucially, the Government is, I understand, to assess the efficacy of the pilot. For me, that trespasses on the principle of the separation of

powers between the legislature and the judiciary, which is an extremely serious issue. Will the First Minister confirm that there will be robust scrutiny of the proposal and that his Government has an open mind and is reflecting on those concerns, which are indeed my concerns?

**The First Minister:** Yes. Of course we will be open minded in our consideration of the legislation. That is why the committee stage of the bill—the evidence-gathering stage—is such a crucial part of the legislative process. It allows us to hear quite robustly, and often quite powerfully, the various arguments being put forward.

I go back to my point that the recommendation for a time-limited pilot of juryless trials is coming from a review conducted by the second most senior judge, Lady Dorrian—a very experienced judge and, I think, a judge who commands wide respect right across the political spectrum. It is therefore important that we give that weight, as we also give weight to those voices that have expressed concern—not just in the judiciary but, as we know, many members of the legal profession, too. We will of course give that weight. We will also give the voice of victims and survivors weight in this decision and the passage of the bill.

We need to improve the experience of rape complainers. I think that we all absolutely accept that. I think that we would all also accept that rape myths do exist within juries. I end with a quote from Rape Crisis Scotland that has stayed with me since my days as justice secretary, and to this very day. It said:

“Many survivors ... describe the process of going to court as more traumatic than the rape itself”.

That is an unacceptable position in any justice system, let alone in ours.

**Ivan McKee (Glasgow Provan) (SNP):** The case for juryless trials in rape cases often cites the work undertaken by Professor Fiona Leverick and her 2020 report on juries and rape myths. However, that report concludes by stating:

“Before suggesting anything as drastic as removing juries from criminal trials, however, it is worth considering whether the answer might lie in addressing problematic attitudes via juror education”.

The report argues that that is

“the way forward before more radical measures are considered”.

Does the First Minister agree?

**The First Minister:** I do not think that it is a case of either/or. It is absolutely acceptable to explore both. It is incumbent on us in government to provide education and try to tackle rape myths in society more generally, but also to consider the pilot.

Ivan McKee is right to reference what is an excellent piece of work—the most comprehensive jury research undertaken, I think, in the entire UK—by Professor Fiona Leverick, James Chalmers and others. I will be happy to correct the record if I am wrong, but my understanding is that Professor Leverick supports the proposal for a pilot. I welcome the steps that the judiciary has taken to improve jury education. I highlight the comments from the senators on the testing of rape myth directions with juries this year. I will quote. When it came to judge directions, they

“did not prevent acquittals which appeared to the trial judge to be conspicuously generous on the evidence adduced.”

There is definitely a role for education around rape myths—

**The Presiding Officer:** Briefly, First Minister.

**The First Minister:** —but there is also the option, which I think we should be exploring, of juryless trials.

**Russell Findlay (West Scotland) (Con):** Lawyers across Scotland say that they will boycott the SNP's planned juryless trials, with senior judges also raising concerns that removing jurors constitutes political meddling in the independence of the judiciary by this SNP Government. As I asked his justice secretary yesterday, will Humza Yousaf ignore those concerns, pass his bill and simply hope for the best?

**The First Minister:** Of course we will listen to the views of the legal profession, listen to the weight of opinion of the judiciary and give appropriate weight to the voices of victims and survivors, too. However, I go back to the central point—I would make this point quite robustly to Russell Findlay—that the proposal for a pilot of juryless trials is coming from Lady Dorrian. It is not Government interference to simply explore a recommendation from the second most senior judge—the Lord Justice Clerk—of Scotland. It does no justice to an issue that requires great sensitivity to throw around terms such as “political interference”, regardless of who that comes from. Let us absolutely give consideration to the voices of the judiciary, but let us not forget the voices of victims and survivors on this issue.

#### **Antidepressants (Assessment of Use)**

5. **Sue Webber (Lothian) (Con):** To ask the First Minister what assessment the Scottish Government has made of the use of antidepressants in Scotland. (S6F-02411)

**The First Minister (Humza Yousaf):** I understand the impact and suffering that depression can cause sufferers and their families. I am committed to improving care, support and access to treatment. It is important that we

recognise that many people in Scotland benefit from the use of antidepressant therapy.

We established a short-life working group on prescription medicine dependence and withdrawal, which reviewed the use of antidepressants across Scotland and involved clinical stakeholders and people with lived experience. In response to that group's recommendations, we will shortly publish a prescribing guide on antidepressants, which will provide practical and evidence-driven guidelines on safe and effective prescribing through the promotion of person-centred medicine reviews.

**Sue Webber:** The number of adults and young people who are prescribed antidepressants has significantly increased over the past 10 years, to more than 1 million. Prescriptions are for a wide range of disorders and illnesses. At the same time, national health service spending on mental health, as a percentage, declined between 2011 and 2022. Does the First Minister accept that there is a clear link between the failure to access mental health services and the subsequent increase in prescriptions? Patients are asking for more than pills. What will ministers do to provide that critical access to mental health services?

**The First Minister:** I cannot be the only one who listened to that question who is disturbed by the insinuation that antidepressants are not a legitimate treatment for those who require them. They, too, can be part of a treatment. *[Interruption.]*

**The Presiding Officer:** Members.

**The First Minister:** People do not only have access to medicine or only have access to, for example, psychological therapies. *[Interruption.]*

**The Presiding Officer:** Let us hear the First Minister.

**The First Minister:** For many people, there will be a mixture of both.

I am proud of the Government's record of investment in mental health services over the past number of years. There have been significant increases not just in mental health services but, crucially, in mental health staffing. I am more than happy to ensure that the Minister for Social Care, Mental Wellbeing and Sport writes to Sue Webber with the detail of that.

I end by saying that, ultimately, these are clinical decisions, and we should leave to clinicians, not politicians, decisions on who is prescribed antidepressants and who is not.

**Paul Sweeney (Glasgow) (Lab):** Research from the Royal College of Psychiatrists that was released today has shown that 58 per cent of people in Scotland think that mental health services receive too little of the healthcare budget.

By the Scottish Government's own measure, that 58 per cent are correct, aren't they? The Government's commitment that 10 per cent of the overall healthcare budget be spent on mental health is not being met. Currently, just 8.7 per cent is allocated. In cash terms, that means that we are £180 million a year short. Will the First Minister confirm whether that 10 per cent target for mental health spending is still a priority for his Government and, if so, how he personally will ensure that it is met?

**The First Minister:** It is still our aim, our ambition and our target. Since 2007, mental health spending has doubled in cash terms from £651 million to £1.3 billion. If Paul Sweeney does not want to take my word for it, paragraph 70 of the latest Audit Scotland report on mental health says:

"Between 2017/18 and 2023/24, the Scottish Government's Mental Health Directorate budget increased significantly".

That is a direct quote. Again, I am more than happy for the minister to furnish Paul Sweeney with further details of the significant investment in the recruitment of child and adolescent mental health services staff in particular, and of the fact that record numbers of young people are being seen through those services. I want those improvements to continue.

### **Safer Drug Consumption Facility (Support for Pilot)**

**6. Kaukab Stewart (Glasgow Kelvin) (SNP):** To ask the First Minister whether he will provide an update on the work that the Scottish Government is undertaking to support the establishment of a pilot safer drug consumption facility. (S6F-02415)

**The First Minister (Humza Yousaf):** I welcome the decision that was taken yesterday by Glasgow city integration joint board. Following the position that was taken by the Lord Advocate, the safer drug consumption facility proposal now allows Glasgow to move ahead with the pilot. We have been consistent in our commitment to supporting the setting up of a safer drug consumption facility, which included facilitating work between Glasgow health and social care partnership and Police Scotland to develop the proposal that was then submitted to the Lord Advocate.

We provided Glasgow with an absolute assurance around funding in advance of yesterday's meeting of Glasgow's integrated joint board to discuss the establishment of such a facility. We will also continue to play an active role in the planning and implementation work to ensure that the facility is delivered in a timely manner and, of course, that it is also fully evaluated.

**Kaukab Stewart:** Alongside other Glasgow MSPs, I wrote to the Home Secretary regarding the issue last month. The response suggests that the Home Office will not stand in the way of the Lord Advocate's authority on the matter, provided that it is exercised lawfully. Although that is welcome, it is disappointing that the United Kingdom Government seems unwilling to work with the Scottish Government to actively progress this public health measure. Does the First Minister agree that it appears that the UK's inaction on the matter is political rather than pragmatic, and that true co-operation from the Home Office would help to provide even better care and support?

**The First Minister:** I agree with Kaukab Stewart. She is right that the easiest, simplest and quickest way to have had such a facility up and running would have been if the Home Office had given approval. *[Interruption.]* I am not sure why Labour seems to be acting as a human shield for the Conservatives—

**The Presiding Officer:** Members!

**The First Minister:** —but I say to Labour and Conservative members in that regard that, even with the Lord Advocate's statement of prosecution policy, there are limitations on the pilot. The safer drug consumption facility can be focused only on this narrow pilot in Glasgow. I know that there have been calls for other pilots to be established, but the statement of prosecution policy is for simple possession offences within this particular pilot.

I welcome the fact that the Home Office and UK Government have said that they will not stand in the way, but I would urge them to take a public health approach to tackling drug deaths, as we have done here in Scotland, and to give approval so that we can, I hope, use safer drug consumption facilities as one tool in a whole range of tools to fight what are still unacceptably high levels of drug deaths in Scotland.

**The Presiding Officer:** We move to constituency and general supplementaries.

### Infrastructure Investment

**Kenneth Gibson (Cunninghame North) (SNP):** In evidence to the Finance and Public Administration Committee, leading economists emphasised how crucial it is for the Scottish Government to invest in Scotland's infrastructure if our economy is to grow and our living standards are to improve. What is the First Minister's response to the statement in the Auditor General for Scotland's report, published today, that the United Kingdom Tory Government is expected to impose, at a time of high interest rates and inflation, a real-terms 7 per cent reduction in Scotland's capital block grant over the next four

years, while the Prime Minister continues to dither over the tens of billions being squandered on the HS2 rail project?

**The First Minister (Humza Yousaf):** Kenny Gibson is absolutely right to raise the UK Government's real-terms cut of 7 per cent to our capital budget. We know that infrastructure investment is key to securing inclusive economic growth and delivering high-quality public services. We have been consistent and very open about the challenges facing our capital investment plans and the tough decisions that we will need to take in relation to the 2024-25 budget.

The challenging economic conditions of the past few years—resulting from Brexit, the disastrous mini-budget and the UK Government not inflation proofing the capital budget—have resulted in that 7 per cent real-terms fall in our Barnett capital funding over the medium term. We will of course look at what innovative finance models we can use to power infrastructure investment in the years to come, but that job has been made considerably harder by the 7 per cent real-terms cut from the UK Government.

### Ayr Station Hotel Fire

**Sharon Dowe (South Scotland) (Con):** A fire has devastated the former Ayr station hotel, causing massive disruption to the rail network in the south-west of Scotland. I put on record my thanks to the firefighters who fought the fire and all the emergency workers involved. It is crucial that the rail station is reopened as soon as possible. What financial help will the Scottish Government give stakeholders to help pay for the substantial costs that they face to make the area safe and reopen this vital rail network?

**The First Minister (Humza Yousaf):** I add my appreciation for our emergency services, in particular the Scottish Fire and Rescue Service, which battled not just throughout the night but into the next day to ensure that the fire was under control.

Our emergency services have always had my utmost respect, which has only increased after the events at Ayr station hotel. The Scottish Fire and Rescue Service has remained in attendance, but there are no further signs of fire. As I understand it, the site should be handed over to South Ayrshire Council today. Sharon Dowe may know that ScotRail has introduced alternative arrangements, with an emergency timetable and train services running from Prestwick town, supported by replacement bus transport.

In response to Sharon Dowe's direct question, the Government will be open to discussions about what support we can provide to secure the site as



well as make sure that services are running as close to normal as possible.

### **Reinforced Autoclaved Aerated Concrete (Tillicoultry)**

**Claire Baker (Mid Scotland and Fife) (Lab):** The First Minister may be aware that tenants and homeowners were moved out of their homes in Tillicoultry on Tuesday evening due to safety concerns after the identification of reinforced autoclaved aerated concrete in the roof of their block of flats. Clearly, that is very upsetting and worrying for my constituents. What discussions is the Scottish Government having with Clackmannanshire Council following the identification of RAAC in those homes? Will financial assistance be made available to local authorities and registered social landlords that discover RAAC? What assistance and advice can be given to homeowners who find themselves in that situation?

**The First Minister (Humza Yousaf):** My thoughts are with the families who have had to leave their homes. I recognise the impact that that will have on them and I commend the quick action that was taken by Clackmannanshire Council to make sure that those households are safe.

There is regular dialogue between the Scottish Government and the Convention of Scottish Local Authorities about RAAC. Risk assessments related to RAAC are under way across the housing sector, and information will be provided as it becomes available. We are working closely with housing stakeholders to ensure that the necessary action is being taken when risks are identified. Claire Baker will know from previous ministerial statements on the issue that we have not received any additional funding from the United Kingdom Government to address RAAC concerns. Of course, if there are additional requests for funding from local authorities to deal with RAAC, we will give them due consideration.

### **A96 Dualling**

**Fergus Ewing (Inverness and Nairn) (SNP):** In the programme for government, the First Minister reaffirmed the welcome commitment to dual the A96 between Inverness and Auldearn, including the Nairn bypass. In November last year, the then transport secretary assured the chamber that the necessary statutory orders relating to compulsory purchase and ancillary roads would be made in a matter of weeks. Nearly a year later, my constituents are still waiting. Will the First Minister ask the transport secretary to bring an oral statement to the Parliament in order to explain why there has been a further delay? The good people of Nairn and, indeed, the whole of the north

of Scotland are surely entitled to know what is or is not going on.

**The First Minister (Humza Yousaf):** The people of Inverness and Nairn are due an update. I am more than happy to consider a ministerial statement or, if it is more appropriate, a written update to the member and other members who have an interest in the A96.

Of course, our manifesto commitment remains to dual the A96—in particular, the Inverness to Nairn bypass. For reasons that are known to Fergus Ewing, outside the Inverness to Nairn section there is a review of options, which is taking place for a number of reasons, including our commitment to our climate obligations. The member is right that we are duty bound to give updates to members of the public in relation to our infrastructure projects, including the A96. I will give consideration to the ask that he has made and will decide what is the most appropriate way to update him, as well as members in the chamber and the public, on our latest plans for the A96.

### **Fatalities on Scotland's Roads**

**Jamie Greene (West Scotland) (Con):** Tragically, last year, there were 174 fatalities on Scotland's roads. That number has increased by 23 per cent, year on year, and it is at its highest level since 2016. I am sure that many in the chamber, as well as our constituents, have been touched by those tragic accidents. However, that also comes against the backdrop of a 14 per cent drop in the number of police road traffic officers over the past decade. Many prominent road safety campaigners say that there is a clear link between that and the number of fatalities, as does the Scottish Police Federation.

Does the First Minister share my concerns and the concerns of road safety campaigners about those tragic statistics, and what is the Scottish Government going to do about them?

**The First Minister:** I absolutely agree with Jamie Greene that any life lost is a tragedy, and my condolences go out to every family and every community that has been impacted by a death on our roads.

What I would say to Jamie Greene is that we have increased funding to Police Scotland this financial year—there has been a significant increase to Police Scotland in terms of its resource budget—and, of course, we will continue to consider what more we can do to support Police Scotland. However, we also know that capital interventions on our roads can be quite important in this regard, whether they involve signage, appropriate speed cameras or other initiatives, and we will consider what more we can do to make our roads as safe as possible.

We have ambitious targets in relation to reducing deaths on our roads, and I will ensure that the Cabinet Secretary for Transport, Net Zero and Just Transition writes to Jamie Greene with further details on action that we are taking on the issue.

### **Rosebank (Licensing)**

**Mark Ruskell (Mid Scotland and Fife) (Green):** Yesterday's decision by the United Kingdom Government to grant a licence to the Rosebank oil and gas field is nothing short of a climate catastrophe, condemning us to a future dependent on fossil fuels while the planet around us burns. It shows utter contempt for our environment and the future generations who will live with the consequences. Will the First Minister join me in condemning this decision, and can he say whether the UK Government carried out the necessary climate compatibility assessment before the licence was granted?

**The First Minister:** I have gone on record as saying that I think that it is the wrong decision to approve Rosebank at a time when the world is literally on fire, when the planet is burning and when we have seen the most devastating impacts of the climate catastrophe. Instead of climate leadership, what we have from the UK Government is complete and utter climate denial.

The future of the north-east is as a net zero capital, not the oil and gas capital. It is transitioning from that to a net zero capital. That is the future that I want to see for the north-east. *[Interruption.]*

**The Presiding Officer (Alison Johnstone):** Members, let us hear the First Minister.

**The First Minister:** That is why we have invested £500 million in the just transition fund.

While the Conservatives believe in unlimited—infinite—oil and gas extraction, we believe in a greener, more sustainable future for Scotland. As ever, on this issue, as on many other issues, the Conservatives will be on the wrong side of history.

## **Point of Order**

12:47

**Douglas Lumsden (North East Scotland) (Con):** On a point of order, Presiding Officer. During a members' business debate on 31 May, John Swinney intervened to say that I was incorrect in stating that United Kingdom swimming pool funding from the Treasury was in addition to the Scottish budget. Mr Swinney has now admitted to me that he was wrong, has apologised and has corrected the record, and I thank him for that.

On 29 June, I intervened on the Minister for Victims and Community Safety, Siobhian Brown—who is walking out of the chamber—to state the same basic fact. The minister responded that Barnett consequentialia had already been added to the local authority block. She then wrote to me to apologise and corrected the record, and I thank her for that.

Yesterday, I asked the Minister for Local Government Empowerment and Planning, Joe Fitzpatrick, about the same UK swimming pool fund. In his response, he stated:

"As I said, the money has been allocated. It was allocated to budgets as part of £100 million of additional funding that went to local government at stage 3 of the budget bill."—*[Official Report, 27 September; c 20.]*

Stage 3 of the budget was in February and, as John Swinney admitted to me in his apology, the money was allocated by the UK Government much later. For the SNP to make that mistake once was unfortunate. To make that mistake twice looks like incompetence. To make that mistake three times looks deliberate.

Presiding Officer, can you let me know if Joe Fitzpatrick has made any attempt to correct the record? Further, given the torrent of corrections that are now being issued by Scottish ministers, is there any action that you can take when such an important issue that affects our communities across Scotland has been obscured to such an extent?

**The Presiding Officer (Alison Johnstone):** Thank you for your contribution, Mr Lumsden. I am unaware of whether any attempt to correct the record has been made. All members will agree that it is of paramount importance that members, including ministers, give accurate and truthful information to the Parliament, correcting any inadvertent errors at the earliest opportunity. If a member has a question about the factual accuracy of another member's contribution, they should raise it with that member. I am sure that, at this point in the session, members are well aware that the Parliament has a corrections procedure and of how that mechanism operates.

We will have a short suspension to allow members of the public who are leaving the gallery to do so.

12:50

*Meeting suspended.*

12:51

*On resuming—*

## **Alcohol and Drug Deaths ("See Beyond—See the Lives— Scotland" Campaign)**

**The Deputy Presiding Officer (Liam McArthur):** I ask members of the public who are leaving the public gallery to do so as quickly and quietly as possible, as business is resuming.

The next item of business is a members' business debate on motion S6M-10164, in the name of Miles Briggs, on "See Beyond—See the Lives—Scotland". The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament notes the campaign, See Beyond - See the Lives - Scotland, developed by the University of Stirling, Scottish Families Affected by Alcohol and Drugs, Scottish Health Action on Alcohol Problems (SHAAP) and the Salvation Army; understands that the campaign aims to reduce the stigma that surrounds deaths due to alcohol and drugs; further understands that, behind every death, there are families, friends and communities who are experiencing devastating loss; recognises the importance of challenging the judgement and stereotypes that people often bring to the topic of substance use, and to people who have problems with alcohol or drugs and their families; commends the campaign pledge committing to be respectful and compassionate towards those affected by substance use, to use non-judgemental language when talking about substance use problems, and to reach out to those they know who have been affected to try to reduce the isolation and stigma that can be faced by those who have been bereaved in this way, and notes the calls on people across Scotland, including in the Lothian region, to sign the campaign pledge at [seebeyondscotland.com](http://seebeyondscotland.com).

12:51

**Miles Briggs (Lothian) (Con):** I thank members from across the Parliament for their support for the motion, which has allowed this debate to take place, and I warmly welcome to the public gallery campaigners and those who have shared their letters to loved ones.

In my time as an MSP, I have opened and spoken in many members' business debates, but this one is very different and very personal. I know that it will be the same for other members who will speak today. At the outset, I thank everyone who will speak in the debate, and I pay specific tribute to Monica Lennon, because, if it was not for her and her brave decision to speak about her dad, Gerard, in 2017, I do not think that I would be leading this debate today or have shared my story.

I think that I speak for all of us as elected representatives when I say that our first instinct, quite rightly, is to protect our families and loved ones from public scrutiny. After all, they have not

put themselves forward for the scrutiny that we rightly should face. Perhaps most critically, we all want to protect our loved ones from what will often seem to be the negative prism of social media and strangers commenting on our family members. Therefore, when I agreed to speak about my dad, Jim, and my experiences growing up, it concerned me how people would judge him, judge me and judge my family. That is exactly why I felt that I needed to tell my dad's story.

The stigma that many individuals and families face when they are supporting someone who is battling addiction is very real, and the stigma and judgment that people often face need to be addressed if we are to break down the barriers to people accessing help and support, and for our loved ones to have the confidence and self-worth to come forward.

I have genuinely been overwhelmed by the number of constituents, colleagues, journalists and people in different countries who have reached out since I wrote my letter and we launched the campaign.

For many people who experience problematic alcohol or drug use, there will often be a life event or trigger to that behaviour and any problematic addictions and issues that go on to develop. I can only imagine how difficult it was for my dad to lose my mum to breast cancer and to be left as a single parent with three children between the ages of seven and 14. My dad was a dreamer. He would often speak about his lifelong dream of moving the whole family to live in a wooden hut in the forests of the great Canadian wilderness. To be honest, I suppose that I am lucky that he made it only as far as Perthshire. My dad was entertaining and charismatic; arguably, he was at his best socially in the pub or at the races. As in many cases, that is probably where a problem with alcohol developed.

The message behind the campaign "See Beyond—See the Lives—Scotland" is that everyone knows someone. As the debate will demonstrate, everyone does know someone.

The campaign was launched in May by the University of Stirling, Scottish Families Affected by Alcohol and Drugs, Scottish Health Action on Alcohol Problems and the Salvation Army. Alongside Monica Lennon, I was pleased to help to launch the campaign in the Parliament, with 14 other people who have shared their letters to their loved ones.

When I spoke to families after that event, it was telling that many of their experiences were the same as mine and my family's. Stigma is still attached to our loved ones speaking about problematic alcohol and drug use, not only from

how people talk about that but from the judgments that they bring to it.

The notion that someone has done this to themselves and the labels that society often attaches to people are harmful. When they seek treatment and support, our loved ones face conscious and unconscious bias, sometimes even from overworked medical professionals.

In its briefing for the debate, Crisis said:

"Stigma Kills!

Stigma impacts on a person's self-esteem, their mental wellbeing, limits their willingness and ability to engage with support services and ability to sustain changes in their lives.

People can change—but stigma holds them back."

I hope that today's debate will present an opportunity to change the conversation about alcohol and drug issues and to address the devastating impact that the loss of a loved one to alcohol or drugs has on their family and friends. I hope that people will visit the "See Beyond" website and support the campaign by agreeing to sign the pledge. I ask people to

"pledge to be respectful and compassionate towards those affected by substance use, including the families and friends of those who have died from alcohol or drugs"

and to pledge to

"show respect by using kind and non-judgmental language about those affected"—

our friends in the media in particular need to consider that when reporting stories. I also ask people to pledge to

"show compassion by reaching out to someone who has lost a loved one to alcohol or drugs".

Many of us in Scotland have an unhealthy relationship with alcohol, and the role that alcohol plays in our culture and our society is often at the heart of that—from wetting the baby's head and giving a good send-off at a wake to drowning our sorrows when times are tough and having alcohol at the heart of all our community, sporting and social lives.

Over the past 10 years, Scotland has lost more than 20,000 people to alcohol and drugs. I lost my dad. I know that we can make a difference, and that starts with ending stigma.

**The Deputy Presiding Officer:** We move to the open debate.

12:58

**Stephanie Callaghan (Uddingston and Bellshill) (SNP):** I thank Miles Briggs for securing this debate during international recovery month and for bravely sharing his experiences today. I am also beyond grateful to all the organisations

that are involved in the powerful and vital “See Beyond—See the Lives—Scotland” campaign and to those who are sitting in the public gallery.

I give my sincere condolences to every person, family member, partner and friend who has tragically lost a loved one to alcohol, drugs or both. I have spoken before in the chamber about my family’s loss, so I will not go into that today, but we know that the issue touches all our lives, as Miles Briggs said.

Such deaths are preventable, yet every day in Scotland we lose more than six people in that way. All the people who have died recently or in years gone by are people whom our system failed.

Problem substance use is a complex issue that is often intricately connected with challenges of poverty, mental health, generational trauma or one-off events. It is critical to consider the social, cultural and economic drivers.

The impact of deindustrialisation remains stark, and that holds particularly true for my Uddingston and Bellshill constituency. Once a proud centre of coal mines and steelworks, Lanarkshire was sadly transformed, and mass unemployment and persistent poverty descended. Too many people found solace in using substances to escape the grinding reality of a life that they felt was devoid of joy or hope.

The most recent recorded local statistics show that there were 76 suspected drug deaths there during the first six months of this year—one of the highest recorded levels in Scotland. However, on a positive note, as we have already heard, many organisations are truly person centred and trauma informed, and focus on the whole person and their whole wellbeing.

In my constituency, the Blue Triangle service operates at the intersection of social care and social justice in a system that is designed to fix people issue by issue. The service says:

“We see the person, not their stuff, and our Mission is to Empower People to Thrive ... to provide a Springboard, not a Safety Net”.

The Beacons centre in nearby Blantyre is also fantastic. A young woman there bravely spoke of her personal battles with mental health and substance use, as well as the stigma that she experienced. She said:

“I was a dancer, I had ambition ... it just happened that there was deprivation, inequalities and adverse childhood experiences that got me.

Stigma is a barrier to recovery; you are so scared that you will be punished, or kids taken away from you”.

She said that the fear of losing her kids was terrifying, but what helped her recovery was being valued and accepted and rebuilding a sense of

control and hope, not judgment, punishment or blame.

Stigma and inaccurate perceptions are devastating. They shatter self-esteem and confidence and limit individuals’ capacity to seek the essential support and treatment that they need, even when they want it. The media certainly play a role. Yesterday’s green light for Scotland’s first drug consumption room, which will offer easy access to key health and support services, resulted in social media headlines such as

“BREAKING: UK’s first illegal drugs consumption room given go-ahead”

and

“First illegal drugs consumption room”.

Some of those headlines have already gone, but the damage stays. Sadly, a life-saving policy was manipulated to reinforce criminal stereotypes and to dehumanise. As leaders, we must challenge those headlines.

We all have a responsibility to reflect on our communication, words and language; to be kind; to talk about the person, not the substance user; and to be catalysts for kindness, change and social renewal.

13:02

**Jamie Greene (West Scotland) (Con):** I am proud to take part in this debate with colleagues from across the chamber, for whom I have immense respect when it comes to this subject. I thank Miles Briggs, my colleague and friend, for being personal and open about his experiences. I also thank the stakeholders who brought the campaign “See Beyond—See the Lives—Scotland” to the Parliament.

I will use the campaign’s title as the guide for my comments. We are used to many debates like today’s and I often think that they are great debates, in which there a lot of do-goodery and warm words are shared across the chamber. What does today’s debate focus on? What is it saying to us and asking of us? What does “See Beyond—See the Lives” mean?

At first glance, I guess that we are being asked, as politicians, to see beyond the substance, the alcohol, the drink or the demon—to see beyond the drug addicts or alcoholics and see them as human beings, not as alkie and junkies, as they are too often seen. We are being asked to see them as our dad, mum, sibling or child.

I do not have siblings or children, but I had a dad who was an alcoholic—and a violent one at that. I am now the age that he was when he succumbed to his illness. In fact, when I was writing my speech yesterday, I realised that his

funeral was so long ago that I barely remember it. I also have a mum who is five years sober. I am very proud of her and she is very much alive. I do not intend to rehearse those stories in great detail today.

For many of the reasons that Miles Briggs eloquently told us, there is still a huge amount of shame and stigma around the subject. However, last year, I did an interview with *Holyrood* magazine, which was the hardest interview that I have had to give in politics. We all have our personal stories—no one is immune to or above the subject. For the relatives of an alcoholic, it can be really hard to see beyond the fear, pain, anger, confusion and utter despair that they experience—more so if they are doing it on their own and if they are a young person or the child of the alcoholic.

It is difficult to see beyond the consequences of the person's drinking and the absolute mess that is often left behind for relatives and loved ones, including deteriorating health—financial and physical—endless desperate ringing around for help, calls to the bank to try to block cards, failure to secure power of attorney, attending funerals and even being at the hands of violence.

However, the reality is that when we strip away the masking effects of the alcohol—the pretend person that it has made them—deep down, underneath it all we often find a warm, loving, helpless and desperate person who is simply crying out for help from us and from the system. The problem is that such help is not always there.

When we try to help someone to face the illness, the stigma is unbelievable—in fact, sometimes it is disgusting. I have heard phrases like, “Well, she's just a selfish alkie”, “He's a monster when he's drunk”, “They're not worth the help—they deserve what they get”, “That's their choice in life—they're all adults and they chose that path” or, even worse, “They're beyond help”. No one is beyond help.

We have difficult and even divisive debates about whether drug takers are criminals or victims of health problems, but when was the last time we had a proper conversation about problem drinking? Let us see the lives of those people through their own eyes, because they often know the damage that they are doing to themselves. They are far too often self-medicating to deal with horrific problems and experiences. They often also feel so much guilt because they know the hurt that they are causing their loved ones.

We should see those lives through their friends, their relatives and the survivors—in particular, those who have had to grieve. We should see the lives of those who have recovered. People do recover and are in recovery. Let us see the difference, which is as stark as night and day, and

black and white, when we see someone who is in recovery.

When I think of my mum's recovery—she will not mind my saying this—the thing that pleases me most is that as she emerged from the darkness of that illness, she grew to rediscover who she was as a person. She became more herself again. Her humour, her wit, her interests, her hobbies, her intellect and her emotions all returned slowly but surely.

As a family, we take nothing for granted. Every day is a new day, but only if someone in that dark, deep place can look ahead and see a parallel future, free of the shackles of the disease. It is not easy for them to imagine, but it is a beautiful thing when they do.

Every such death is avoidable. What we can do as MSPs is complete the pledge that the campaign asks of us. I pledge to be respectful, compassionate and non-judgmental, and to reach out to someone who needs my help. I make that pledge today. Let us all make it.

13:07

**Monica Lennon (Central Scotland) (Lab):** Colleagues will know that I am not often stuck for words, but Miles Briggs has made a habit of making me cry in Parliament in recent months. I am genuinely grateful to him for bringing the debate to Parliament and for bringing colleagues together, and I am grateful to members who signed the motion but could not be here to speak. I thank everyone in the gallery—I am trying not to make any eye contact, right now.

This is a debate, and what we say matters, but it is also important to have the space in the chamber to listen and to show compassion and kindness, which we hope will resonate in our communities.

I thank Miles Briggs for mentioning my dad, Gerard—Gerry—at the start, and for talking about his lovely dad, Jim. We are two different MSPs from different parties, different parts of the chamber and different parts of the country, and our two dads were, I am sure, very different, but at the end of the day, we can see that there is a common thread that joins us. It is a pity that Miles Briggs and I are not sitting together for this debate, because a hug would be nice right now.

When we were approached to be part of the campaign, it was a huge honour. I did not want to turn up looking like I am right now, with a runny nose and wet eyes, but I suppose that that is what it is about: it is about showing our vulnerability and being honest that this is really hard. It is hard to find the words. Some days it is a bit easier than others but, as they say, “One day at a time.”

I am really grateful to the University of Stirling, the Salvation Army, Scottish Families Affected by Alcohol and Drugs and SHAAP for reaching out to us. I also thank the people who are here, in the gallery.

A lot of good stuff is happening out there; Stephanie Callaghan was right to talk about some of the projects, charities and groups that are doing the work. Over the summer, after our parliamentary event was held, I got out in Lanarkshire and elsewhere to chat and see what was going on. There is a lot of love, kindness and compassion out there, but we need to scale up the work and make sure that there is funding to do it.

The barriers are real and stigma is a killer. People might ask why we are discussing stigma when we should be talking about legislation, policy and funding. All those things are important—we need everything—but stigma is a killer because people are frightened to ask for help. They are worried about the police being at the door and about social work services using their substance use against them. What will the school say? What will people say at work? What might our colleagues in Parliament think of us if we say that substance use is an issue for us?

The Eva Burrows 1st Stop project in Cambuslang is one that I have spent time with. It is doing amazing work to end stigma and to bring tackling homelessness into the equation. We have had really good briefings on that from Turning Point Scotland and Crisis. We know that we are not doing enough and that we need to do more. It is a public health crisis.

Presiding Officer, I hope that you will indulge me, because we do not have a lot of speakers in the debate from the Labour benches. I want to talk about the letter that I wrote to my dad. It took me ages to write it. I looked at everyone else's letters and was so amazed and impressed by them that I could not write mine. I found it very hard—so Miles Briggs completed his homework before I did. I talk to my dad when I visit the cemetery and so on. I know that that might sound weird, but we need to talk about bereavement, dying and grief a bit more.

I suppose that what I wrote was a love letter to my dad. I will not read it all now; it is on the website, and people can see the video. I was really struck by Ann's letter to her friend Carol. Ann talked about her guilt. In my letter to my dad, I said:

"There were times it was too difficult to be around. Too many days when it was too painful to run to you. On those dark days when we were apart, I hope you know you were always loved."

I wrote that because there was a lot of anger, isolation and distance. That guilt is real.

Some of the stigma that I experienced as a family member was through the national health service. People know that I am a huge champion of our NHS, but we need the kindness that I spoke of not just from our politicians but from our general practitioners, our nurses, our doctors and so on.

I will end with this, and I do not say for sympathy. We have missed out on so many moments and milestones spent together because of avoidable deaths. All the family members of the 20,000 people who have lost their lives over the past decade will get that. In my case, my dad and I talking about politics, and debating ideas, influenced me in my life, but my dad died the year before I was elected to the Scottish Parliament. I struggle with that. In the letter, I say:

"If you'd lived one more year to see me elected to the Scottish Parliament, it would have been a special moment for us to share."

I will stop there, Presiding Officer. Thank you for your indulgence. I want anyone who is struggling today to know that they are not alone and that they can reach out. Get on that website and get people to sign the pledge. We have a lot of work to do, but we can do it together, because we have to see beyond, and we have to see the lives.

**The Deputy Presiding Officer:** Thank you, Ms Lennon. I am sure that your dad would be enormously proud.

I call Beatrice Wishart.

13:13

**Beatrice Wishart (Shetland Islands) (LD):** I thank Miles Briggs for bringing this important debate to the chamber. When I attended the "See Beyond" parliamentary event in June, I heard moving and powerful contributions from family members and friends of people who have died because of alcohol or drugs, including from our MSP colleagues Miles Briggs and Monica Lennon. I commend them both for their work on this important issue. I know that many across Scotland sadly share that experience, and I thank everyone who shared their stories at the event.

Alcohol and drug addiction can be devastating to communities, family, friends and, of course, the person with the addiction. Today might not be the time for this conversation, but I observe parallels with gambling addiction. The stigma associated with that addiction also causes people to hide their problems, which makes seeking help harder.

It is true that everyone knows someone. I could share stories about drug and alcohol addiction that are close to home, but living in a small community means that people and families could be easily identified from what I might say, so I will obviously not do so. Suffice it to say that I have a great

understanding and empathise with people who have experienced addiction personally or as a friend or family member. I know that children who grow up in households where there is addiction can be impacted both in the short term and long into their adult lives.

Nobody chooses to have an addiction, but we live in a world with less compassion than we would like to admit. There is a long history of stigmatisation of and discrimination against people with addictions. Drug and alcohol addiction stigma can have serious consequences. Feeling judged can prevent a person from seeking support and treatment and stigma can erode self-esteem and is linked to mental health problems. Family and friends of someone with a drug or alcohol addiction can be affected by feelings of shame and guilt, and, when bereaved, people can find it difficult to speak openly about losing someone to drugs or alcohol and get the support that they need. Organisations that provide support to people with addictions are stigmatised, too, and communities can become defined by substance abuse, causing them to feel isolated. It is important that we tackle stigma so that the people who are affected by alcohol and drugs can get better and more timely support.

Removing stigma involves effort from all of us, across society. As the “See Beyond” pledge states, that effort involves a commitment to being “respectful and compassionate” towards those affected by substance use; using “non-judgmental language” when talking about substance use problems; and “reaching out” to those who have been affected. Those steps are important to take. Addiction is a health issue and should be treated with help and support, not judgment.

Scotland will soon have its first safe consumption room, which is a measure that has received widespread support and seeks to protect some of the most vulnerable people from overdose. Evidence from other countries shows that safe consumption rooms save lives and can provide a point of contact with services that people with problematic drug use might otherwise face barriers in accessing.

Action must take place on many fronts to reduce the harm that is caused by drug and alcohol addiction. In my constituency of Shetland, the charity Dogs Against Drugs was set up over 20 years ago following a number of drug-related deaths in the isles, each of which was a tragedy. It has two main activities: seizure through use of trained drug detection dogs of drugs that arrive in Shetland, and drugs education in schools to prevent substance use.

Recognition of the intersecting issues that contribute to addiction means addressing homelessness, treating mental health problems,

reducing poverty and ensuring that tackling stigma is integrated across all actions. At the heart of everything must be the people who live with addiction and their friends, families and communities.

13:18

**Finlay Carson (Galloway and West Dumfries)**

**(Con):** As we know, problem drinking is an issue and, sadly, Scotland has an unenviable reputation across the world, as alcohol is embedded right in the heart of our culture. There are no signs of that situation changing; indeed, more than four in 10 non-drinkers perceive that others think that they are odd for not drinking. The situation affects young and old, rich and poor, and our towns and cities as well as rural and remote communities, with around one in four people drinking at hazardous or harmful levels.

Recent statistics reveal that, in Dumfries and Galloway, the number of people who died of an alcohol-specific death last year amounted to 36. Those figures might not be the worst in comparison to the average in Scotland, but they simply cannot be ignored or glossed over because, as the motion states,

“behind every death, there are families, friends and communities who are experiencing devastating loss”.

According to NHS Dumfries and Galloway and based on data from 2017 to 2021, 30 per cent of men and 11 per cent of women exceed daily or weekly recommended drinking limits. A total of 442 people were admitted to hospital in the region due to alcohol-related illness. Those stats make for worrying reading.

It is concerning that the number of Scots who are gaining access to receive treatment for problem drinking has fallen dramatically at a time when the number of alcohol-related deaths is soaring. That is not only regrettable; it is shameful. The Government has admitted that it took its eye off the ball on the drug deaths crisis, and I fear that it is doing exactly the same with deaths caused by alcohol.

I recognise the fantastic staff and volunteers who work in drug and alcohol addiction support in Dumfries and Galloway, but the one big barrier is stigma, which limits the number of people who come forward. The problem is not going to go away and cannot be brushed under the carpet. It needs swift action as well as increased resources to help those who need support when they seek it.

Are we really sending out the right message to anyone who is struggling with alcohol? I do not think that we are. We cannot simply acknowledge the issue, particularly because of the stigma, guilt and embarrassment that we have been talking about today. When people come forward, we



cannot just say that we know that they have a problem but we are sorry that there is no treatment programme places available.

We need to remove the stigma that surrounds addiction in all its forms if we are to stand any chance of addressing the issue. Huge efforts have been made to remove the stigma that is attached to drug addiction, and we need to take the same approach to alcohol. The “See Beyond” campaign aims to reduce that stigma.

My grandfather died 50 years ago. He was a successful and well-respected businessman and it was not until many years later that my mother admitted that he was an alcoholic. Until then, his illness was referred to as “problems with his nerves”. He spent time in a mental hospital, but the reality was that he had a serious problem with alcohol abuse and it affected my grandmother, who was not able to talk about it because of the stigma. That was 50 years ago, but little has changed.

One of my very best friends died a few months ago. He was an amazing musician and the best of friends, but he clearly had a problem with alcohol. None of us stepped in. He was what is often referred to as a functioning alcoholic, but alcohol was almost certainly a contributing factor to him losing his job and, ultimately, his life. There was no death notice, no funeral and no chance to share our grief with the family; there was just silence. I would love to name him and pay tribute to him, but there is clearly so much stigma surrounding his death that his family is not able to cope with it. That is not a criticism; it is just a reflection of the stigma that still exists to this day.

That must change, and the “See Beyond” campaign is making progress on that. Today, I ask the minister and his Government to act swiftly to ensure that the many Scots who are struggling with alcohol issues, as well as their families, friends and communities, get the vital support that is necessary to tackle this growing epidemic.

13:22

**Carol Mochan (South Scotland) (Lab):** I start by thanking Miles Briggs for bringing such an important debate to the chamber. As other members have done, I thank him and Monica Lennon for their personal letters.

I also thank Lucy, Holly, Zoe, Fiona, Peter, Andy, Gerry, Pauline, Irene, Caroline, Ann, Philip and Lorraine—I hope that I have not missed anyone—for sharing their heart-wrenching stories of love, loss and hope for the future.

It is unfortunate that we require to have this debate, but it is a reality that we must do so, because judgment and stigma continue, as we

have heard. If our approach to changing that does not include accepting where we have gone wrong in the past and where we are not getting it quite right now, we are doing a disservice to those who already have become, or who could become, dependent, and their friends, their families and their communities. I say to all my colleagues in the Parliament that we must listen to their stories and seek to understand how and why stigma affects people and their loved ones while they are navigating an often tremendously difficult time in their lives.

I am not going to repeat the statistics that we have heard today, but every individual who has lost their life through alcohol or drug dependency is a loss before their time, and it must always be remembered that their friends and family have lost a loved one. Every life lost is an absolute tragedy.

This is a public health emergency and it must be treated in that way. That includes our being respectful and compassionate to others. The point about the way in which the media present the issue is important, and I call on all parliamentarians to challenge such language, because we know that it affects people.

**Monica Lennon:** Will the member give way on that point?

**Carol Mochan:** Of course.

**Monica Lennon:** Now that I have composed myself, I will make one of the points that I had hoped to get to. Sometimes, we get good articles and features, the words of which are on point, but when it comes to the headlines and the photos, stigma creeps back in. Does Carol Mochan agree that there is more work to do on media reporting and that it is not just about the copy but the photos and the headlines?

**Carol Mochan:** I absolutely agree with that point. I will make a point that crystallises it.

As I often do, I will talk about the impact of alcohol and drug harm on our most vulnerable communities. People in Scotland’s most deprived communities are five times more likely to die because of alcohol-related disease and 16 times more likely to die from drug misuse than those in our least deprived communities. The impacts of alcohol harm are wide ranging and can affect anyone, but I am sure that we all want to address the fact that, in 2023, those harms are still felt acutely in our most vulnerable communities.

That links to the point that Monica Lennon made, that those communities are often already stigmatised. Therefore, it is really important that we strive to not stigmatise certain communities and people who perhaps have dependencies that they are trying to work with. We need a strategy that is underpinned by kindness. It is imperative

that we have a compassionate preventative approach that tackles the root causes of some of the problems in our communities, and that we crystallise in people's minds the point that we must always treat people with kindness and respect.

As I said at the beginning of my speech, I wish that we did not have to have the debate, but we do. I encourage everyone who can do so to listen to the stories and sign up to the pledge.

13:27

**The Minister for Public Health and Women's Health (Jenni Minto):** I, too, thank Miles Briggs for lodging the motion as we welcome and support the work of the "See Beyond—See the Lives—Scotland" campaign. I spoke to Miles Briggs after I had read his letter. I said to him that his honesty and courage shone through. I thank him very much for doing that.

When I read Monica Lennon's letter, I thought about my relationship with my dad and the excitement of waiting for him to come home. It was a love letter. It was beautiful.

The Minister for Drugs and Alcohol Policy, Elena Whitham, was present at the event in the garden lobby in June, and I know that she was moved by those who chose to share their experiences as family members who have tragically lost someone due to substance use. They included Miles Briggs and Monica Lennon.

When I was preparing for this speech, I watched a few of the videos on the campaign's website. The feelings of honesty and grief, but also, as Carol Mochan said, love and hope, shone out from all of them. I thank those involved very much.

I appreciate how difficult and painful such situations are. However, as other members said, it is only by listening to the voices of people with lived experience that we will find the right solutions and truly understand the damage that stigma does. The debate shows that we are gaining a clearer understanding of the harms of stigma and that it is necessary to work together across the parties to tackle it.

I am pleased to say that, since the event earlier this year, officials have been working with the coalition of partners who have delivered the "See Beyond" campaign to support them to share it further. It is a powerful resource and we are committed to ensuring that families across the country that have lost a loved one to substance abuse can see that they are not alone. As Jamie Greene said in his beautiful speech, for which I thank him,

"No one is beyond help."

We have set out the principles of how we will improve holistic support for families that are affected by drugs and alcohol in our framework "Families Affected by Drug and Alcohol Use in Scotland: A Framework for Holistic Whole Family Approaches and Family Inclusive Practice", which was published in December 2021. That framework recognises that all family members need help and support, both in order to be involved in their loved one's recovery and in their own right. In order to realise that, we are investing more than £6.5 million per year to improve family support. That is provided both through alcohol and drug partnerships and directly to vital front-line organisations via a grant funding programme.

It is essential that we invest in networks of community family support to enable families to talk to and support one another, giving them safe and supportive platforms to reach out to others who share the same experiences.

**Jamie Greene:** I am grateful to the minister for her kind words. From my experience of living through this, trying to assist someone to get on the path to recovery, the reality is that you feel very alone. You are often signposted to so many different places, most of which are overwhelmed and overstretched. Some of them do not even exist any more—they have shut down.

There needs to be a clear central place for family members or people who are trying to help people with substance abuse to go, so that they can pick up the phone and get immediate help from somebody who is local to them. It is the local nature of, and quick and easy access to, a service that is so important, and that one-to-one contact with someone who will help them. For far too many, that is simply not there at the moment. I hope that that can improve.

**Jenni Minto:** I thank Mr Greene for that intervention. He has put that on the record, and I am sure that my colleague Elena Whitham or her officials will get back to him on that. He made a powerful point.

We know that stigma can inhibit that vital connection with families, who may feel judged and isolated. Stigma is driven by assumptions that are not based on fact or evidence—we see and hear the harmful stereotypes far too often. That is why campaigns such as "See Beyond" are so important in bringing attention to the damage that is caused by stigma. It can be difficult to share our painful experiences, and it can be challenging to hear them, but, as a society, we cannot turn away from that. Stephanie Callaghan, in her contribution, highlighted the fact that it is about not judgment or blame, but hope.

In sharing their stories, the families who took part in the "See Beyond" campaign are bravely

showing other families across Scotland that they are not alone. It is essential that we are able to foster a culture in which we can speak openly and without fear about losing a loved one due to drugs or alcohol, or about one's own experiences of drugs or alcohol abuse.

**Monica Lennon:** I am grateful to the minister for her comments. It is good that she is here in her capacity as the minister for public health. One of the organisations that I spent time with this summer is the Scottish Association for Mental Health. It has an individual placement and support service in North Lanarkshire, and it stressed to me that employment can be a health outcome on someone's journey.

However, I heard some worrying stories about people in the workplace. If someone was living with cancer, people would—one would hope—be very supportive, but substance abuse has been treated somewhat differently. Some people said that they had been asked to sign up to drug and alcohol testing as a condition of coming back to work, but, when I asked them about it, it did not sound as if they had given fully informed consent to that.

Are there conversations that the minister could have with other colleagues in Government? We need to look at the matter holistically. I feel that there is workplace stigma. There are some really good employers and there are some who just do not get it. Could we do some more work on that?

**The Deputy Presiding Officer:** I can give you the time back, minister.

**Jenni Minto:** Thank you.

I thank Monica Lennon for that intervention, as she raised an important point. My previous employer, a while ago, had very clear guidelines that everyone understood and worked towards, which I thought was really positive. We are working across ministerial portfolios, so I am happy to look at what the member described.

Together, we can tackle prejudice and discrimination towards people who are affected by substance use. I confirm that the Scottish Government absolutely recognises drug dependency as a health condition and that people who are affected by substance use should be treated with the same compassion as those who are experiencing any other health condition.

I also want to reflect on what Beatrice Wishart said. Last week, I was at the Health and Social Care Alliance Scotland self-management awards, where the keynote speaker talked about gambling as a public health issue.

Our stigma action plan was developed with input from our third sector partners. In the coming months, the detail of the work will be co-produced

with people who have lived and living experience, including families. Through a new voluntary accreditation scheme, we will target the structural and systemic stigma that is too often embedded in organisations. Member organisations will be asked to show how they are actively supporting people who are affected by substance misuse by removing barriers.

We will also introduce a national programme to target public stigma, challenge uninformed assumptions and highlight the fact that a health condition such as substance dependency should not be used to define or punish people or their families.

Stigma is fed by the myth that addiction is a choice and that people can stop using drugs if only they try hard enough. There are many reasons why people use drugs and alcohol. For some, it is to try the experience. For some, it is an occasional thing, but others use them to cope with trauma or pain. No matter the reason, no one chooses addiction. We do have a choice, however: we must choose to actively fight stigma and to respond to the drug emergency with kindness and compassion. We can all learn to do that.

Alongside our work to support families and tackle stigma, Scotland has set out an ambitious way forward for respecting and enhancing human rights, and the forthcoming human rights bill will give effect to a range of internationally recognised human rights in Scots law. Those include the right to the highest attainable standard of physical and mental health and the rights to adequate housing and an adequate standard of living. The incorporation of those rights into Scots law through the bill will play an important role in tackling the stigma of substance dependency across Scotland by ensuring that everyone's human rights are respected, protected and fulfilled.

By working together across the chamber with vital organisations such as those behind "See Beyond" and with those whose lives have been affected by substance use, we can end stigma. Every person in Scotland can also play their part by reaching out with kindness, providing a listening ear and treating people who are affected by alcohol and drugs with respect. As Miles Briggs said, everyone knows someone.

**The Deputy Presiding Officer:** Thank you, minister. That concludes the debate, and I suspend this meeting of Parliament until 2.30 pm.

13:37

*Meeting suspended.*

14:30

*On resuming—*

## Portfolio Question Time

### Transport, Net Zero and Just Transition

**The Deputy Presiding Officer (Annabelle Ewing):** Good afternoon. The first item of business this afternoon is portfolio question time, and the portfolio is transport, net zero and just transition. I remind members that, if they seek to ask a supplementary question, they should press their request-to-speak button during the relevant question or, if online, enter the letters RTS in the chat function.

#### Network Rail (Meetings)

**1. Collette Stevenson (East Kilbride) (SNP):** Earlier this month, the Minister for Transport confirmed a very welcome investment of around £140 million in the East Kilbride rail enhancement—

**The Deputy Presiding Officer:** I am sorry, Ms Stevenson. Could I ask you to resume your seat for a second? The question that needs to be asked is your principal question, as per question 1 in the *Business Bulletin*, starting with “To ask the Scottish Government”.

**Collette Stevenson:** Apologies, Presiding Officer, for my mistake.

To ask the Scottish Government when it last met with Network Rail and what was discussed. (S6O-02568)

**The Minister for Transport (Fiona Hyslop):** I attended a meeting on Tuesday to discuss the forthcoming peak fares removal pilot, and Network Rail was represented at the meeting. My officials at Transport Scotland have regular discussions with Network Rail on a full range of subjects concerning the operation, maintenance, renewal and enhancement of the Scottish railway network. Most recently, for example, officials met Network Rail yesterday at the Scotland’s railway business briefing, which was attended by Andrew Haines and Alex Hynes. Today, officials are meeting Network Rail and South Ayrshire Council to discuss Ayr station.

**Collette Stevenson:** I will start again. Earlier this month, the minister confirmed a very welcome investment of around £140 million in the East Kilbride rail enhancement project. I was pleased to hear that we will have new stations at East Kilbride and Hairmyres, as well as an extension to double tracking. Will the minister outline the other benefits

of the enhancements to my constituents in East Kilbride, as well as for the environment?

**Fiona Hyslop:** Electrification of the route will enable quieter, more reliable and greener electric trains. It will transform the customer experience and contribute to the Scottish Government’s decarbonisation commitments. The extension of the infrastructure at Hairmyres will improve operational resilience and flexibility of service, and the new station buildings at East Kilbride and Hairmyres will make rail services more accessible and, I hope, attractive. The transport interchange at Hairmyres will provide users with choices in how they travel to and from the station, including sustainable modes, which in turn will deliver environmental benefits.

**Douglas Lumsden (North East Scotland) (Con):** Many years ago, the Scottish Government announced £200 million to decrease journey times between Aberdeen and the central belt by 20 minutes by 2026. Was that discussed with Network Rail? Will the minister provide an update on how much of the £200 million has been spent to date and on when passengers in the north-east will start to see improvements to journey times?

**Fiona Hyslop:** I am glad that Douglas Lumsden is so supportive of the decarbonisation plans to ensure that we have electrification, which can improve journey times, among other things. As I set out, the subject of my most recent discussion with Network Rail, on Monday, was the launch of the peak fares removal pilot, which many people are looking forward to.

If there is any further detail that I can provide on spend from what was a commitment some time ago, I will, but we have obviously had a number of budgets since then.

Douglas Lumsden will be well aware that the problems caused in the United Kingdom economy and budget by his party, among other issues, have led to real constraints on infrastructure spend. As outlined by the Auditor General for Scotland only today, that has put big pressures on our spend. However, our commitment on electrification still stands.

**Foysoyl Choudhury (Lothian) (Lab):** Network Rail has previously been open to discussing the potential upgrade of the south suburban line. A train-tram solution would see vehicles running on the south suburban line, then transferring to streets to achieve convenient and more direct access to the city centre. What discussion has the Scottish Government had with Network Rail regarding the train-tram solution? Will it consider running a feasibility study on the proposal?

**Fiona Hyslop:** I do not have the details to hand of the latest discussions between Network Rail and Transport Scotland on that, which I know is

something that many people in Edinburgh think would be a sensible way forward. The strategic transport projects review 2 set out priorities and future opportunities. In Glasgow, the metro would be used to enhance a multimodal approach to transport, along with light rail and other modes, and there may be potential for a similar project in Edinburgh, which would be beneficial. There are many priorities and interests. If I can follow up in writing to let the member know about recent discussions, I will do so.

### **Multimodal Smart Card**

**2. Graham Simpson (Central Scotland) (Con):** To ask the Scottish Government when it will introduce a nationwide multimodal smart card. (S6O-02569)

**The Minister for Transport (Fiona Hyslop):** I am pleased to announce that we will imminently issue letters to appoint members to our newly formed national smart ticketing advisory board. Following acceptance by those members, that unique forum will include passenger, operator and public body representation to advise me and will take a collaborative approach that will ensure consistency for customers and industry.

That will build on smart activity to date, including the already established and widely accepted multimodal smart card platform used for both commercial and concessionary smart tickets on rail, bus, subway, tram and ferry by the users of the 2 million smart cards in circulation across Scotland.

**Graham Simpson:** The Scottish Government has been talking about having a national smart card for well over a decade, but nothing has happened. When Humza Yousaf was transport minister in 2016, he published a report that said:

“The passenger is the end user of smart ticketing and it is critical that they see benefits in a consistent experience across Scotland from multi-modal smart ticketing.”

Nothing has happened since then and the minister has just announced yet another talking shop. Why has nothing happened and, to go back to my original question, when will we see smart ticketing?

**Fiona Hyslop:** I am not sure that the member listened to my initial answer. There has been significant progress to date on smart ticketing, which includes the availability of smart ticketing for both concession and commercial tickets for those using the 2 million smart cards in circulation and the 98 per cent of our bus journeys that are now being paid for by contactless card. The use of mobile ticketing for rail journeys has also expanded.

I do not think that the industry advisers who will sit on the national smart ticketing advisory board will take kindly to the member's description of them.

**Beatrice Wishart (Shetland Islands) (LD):** To travel from Unst, the most northerly island in Shetland, to Edinburgh by using only public transport, a traveller needs multiple bus and interisland ferry tickets and a further ticket for the NorthLink ferry to Aberdeen, and they must then buy a rail ticket for onward travel on the mainland. The fair fares review has been promised for some time. Will that review include an outline of the solutions to those barriers to flexible travel, such as the integrated smart cards that have been promised for some time?

**Fiona Hyslop:** The member makes an important point about the fair fares review, which is as much about accessibility as it is about affordability. Consistency matters. I do not know the detail about Shetland in particular, but, when I visited Transport Scotland this week, work was taking place to integrate, for Orkney, exactly the forms of transport and digital ticketing that the member described. I will find out information about Shetland in particular and give that to the member.

**Stephen Kerr (Central Scotland) (Con):** Why was it possible for delegates attending the 26th UN climate change conference of the parties—COP26—to have that functionality when ordinary Scots cannot, even all this time later?

**Fiona Hyslop:** I had a recent meeting with Strathclyde Passenger Transport, which has well developed plans and proposals that I am very keen to support. Many people, including 2 million smart card users, are using the existing smart technology and the specific project in Strathclyde will address the point that the member makes.

### **Fort William (Integrated Transport Plan)**

**3. Kate Forbes (Skye, Lochaber and Badenoch) (SNP):** To ask the Scottish Government how it is progressing its integrated transport plan for Fort William to reduce congestion and increase resilience and reliability on the trunk road network. (S6O-02570)

**The Minister for Transport (Fiona Hyslop):** The proposed integrated transport plan is a recommendation that emerged from strategic transport projects review 2, and Transport Scotland has started early preparatory, planning and governance work to support its development. I recently had the pleasure of visiting Fort William, and during my visit I had several discussions with stakeholders on transport, including on the proposed plan. The Scottish Government and Transport Scotland will work with our active partners in Fort William 2040 to ensure that the

future of the town is considered in a place-based way that benefits the entire town—its people, businesses and visitors.

**Kate Forbes:** I know that the local community in Fort William hugely appreciated the minister's visit over the summer. She will know from that visit that the A82 is a primary route not just for locals but for anybody who travels from south to north along the west coast. However, during the summer in particular but also throughout the year, it can take more than an hour to travel a mile on that road. That has a massive impact on business haulage, on emergency services and on people getting about Fort William for their daily business. Does the minister have any ideas about how Transport Scotland can progress a permanent long-term solution to this challenge?

**Fiona Hyslop:** The points that the member raises were clearly articulated to me when I made my visit to Fort William in the summer. I recognise the importance of the A82 through Fort William and the western Highlands and I recognise the challenges that additional traffic, particularly during the tourism season, places on the local community. The continued impact of congestion on reliability has led to the proposals for a bypass being revisited as part of STPR2. Some form of bypass, bearing in mind the constraints that exist on the project, forms part of the thinking for the Fort William 2040 masterplan development.

### **Congestion Charging Schemes**

**4. Russell Findlay (West Scotland) (Con):** To ask the Scottish Government what its position is on the introduction of road traffic congestion charging schemes. (S6O-02571)

**The Cabinet Secretary for Transport, Net Zero and Just Transition (Màiri McAllan):** The Transport (Scotland) Act 2001 established a discretionary power for local authorities to implement road user charging schemes on the basis that they are best placed to determine whether a scheme will support objectives in their local transport strategy. We welcome local authorities' commitment to local measures that support delivery of a 20 per cent reduction in car kilometres, including the commitments of the City of Edinburgh Council and Glasgow City Council to a 30 per cent car kilometre reduction. We will work with local authorities to support equitable measures that will encourage active travel and greater investment in public transport for a fairer and greener transport system.

**Russell Findlay:** We know that Scottish National Party councillors in Glasgow are plotting a congestion charge that will hammer hard-working people who need their cars in order to do their jobs. Many have already been penalised by the punitive low-emission zone scheme, which has

also hit shops and nightlife. Glasgow Chamber of Commerce is clear that this is happening only because SNP ministers are cutting cash to councils. Will the money that is taken from the pockets of motorists by any congestion charge be used to urgently repair dangerous roads and invest in public transport?

**Màiri McAllan:** Russell Findlay's characterisation of the opportunity for reduced congestion, greater air quality and more space for walking, wheeling and cycling is quite extraordinary—and inflammatory, I would suggest. As I set out in my initial answer, powers to introduce road user charging schemes already rest with local authorities. They have done so since 2001. As I said, I welcome the encouraging signs from both Glasgow City Council and the City of Edinburgh Council that they are committed to car kilometres reduction because of the opportunities that it creates, which I narrated at the beginning of my answer, for better spaces to live, work and spend time in.

**Willie Rennie (North East Fife) (LD):** The cabinet secretary should look more closely at what the deputy leader of the SNP in Glasgow has said. He has made it very clear that this is about raising money from people who live in areas outside Glasgow, rather than trying to tackle congestion. Is that the best way to take people with us when we are trying to tackle climate change?

**Màiri McAllan:** On the specifics of that point, just the other day, in my response to a written question from Pauline McNeill—I understand that it will have landed with her—I was clear that the Scottish Government has had discussions with Glasgow City Council in the context of those local measures to support delivery of a 20 per cent car kilometres reduction, but the Scottish Government has not had discussions with the council regarding any specific congestion charging schemes, including on charging drivers who are not resident in Glasgow. Councils are accountable to their local communities and they have the ability to decide whether they should implement measures such as local congestion charging.

### **Just Transition (North-east Stakeholder Discussions)**

**5. Audrey Nicoll (Aberdeen South and North Kincardine) (SNP):** To ask the Scottish Government for its response to the Robert Gordon University report, "Powering up the Workforce".

**The Cabinet Secretary for Transport, Net Zero and Just Transition (Màiri McAllan):** The Robert Gordon University report shows Scotland's enormous energy potential and demonstrates that we possess—[*Interruption.*]

**The Deputy Presiding Officer:** I am sorry—will the cabinet secretary resume her seat?

**Màiri McAllan:** Yes, of course.

**The Deputy Presiding Officer:** Sorry, Ms Nicoll—while I was looking at another issue, my attention was drawn to the fact that the question that you asked is not the question that appears in the *Business Bulletin*. [Interruption.] Ms Nicoll needs to read out the question that she has asked per the *Business Bulletin*, so perhaps one of her colleagues could helpfully provide her with that.

**Audrey Nicoll:** I have it now. My apologies.

To ask the Scottish Government when it last met with stakeholders in the north-east to discuss its just transition strategy. (S6O-02572)

**Màiri McAllan:** In my role as cabinet secretary, I have the pleasure of spending a great deal of time in the north-east. Most recently, I was there on 15 September—two Fridays ago. Among the visits that I undertook were visits to those who are currently in receipt of funding from the Scottish Government via the just transition fund. Those included helping to launch the energy transition skills hub with North East Scotland College in the energy transition zone, which is in receipt of £4.5 million from the just transition fund and which will help 1,000 people into energy transition jobs over the next five years.

I also had the opportunity to visit Camphill school, where I learned about its Murtle market project, which helps young people and children with complex needs to develop skills for the transition. I am pleased that we were able to support that financially as well.

**Audrey Nicoll:** The Rosebank project has been given the go-ahead. Although the oil and gas industry continues to make a significant contribution to our economy, it is clear that we must balance our future energy needs with our climate obligations—critically, ensuring a fair and just transition to net zero for our workforce.

The report that was published by the Robert Gordon University outlined that the number of people employed offshore could rise from just over 150,000 in 2023 to 225,000 by 2030, with new renewables jobs outnumbering oil and gas roles if a successful transition is achieved. What action is the Scottish Government taking to ensure that we do not lose that once-in-a-lifetime opportunity, particularly in the face of the United Kingdom Government's disappointing—

**The Deputy Presiding Officer:** Thank you, Ms Nicoll, you have gone over your time.

**Màiri McAllan:** This week's developments on Rosebank confirm a number of concerns that the Scottish Government has had for a long time.

Those relate principally to the size of the field, the fact that it will primarily produce oil and the fact that that oil is due principally to be exported and therefore cannot contribute to national energy security which, alongside climate concerns, I understand to be very important.

The Robert Gordon University's report shows enormous energy potential and demonstrates that Scotland possesses the natural resources and the skills that are required to lead the global energy transition.

I mentioned the £4.5 million that we have invested in the energy transition skills hub and the 1,000 people whom it will train over the coming years. We have also invested £11 million in a skills passport; £5 million in an energy skills passport, which will support the transition of skills and jobs across offshore energy sectors; and £1 million in a skills accelerator, which will deliver pilot training courses in the area.

**Liam Kerr (North East Scotland) (Con):** After Rosebank was given the go-ahead yesterday, Sir Ian Wood, who has more than 60 years of experience and a track record of business success, said that it would accelerate a just transition to net zero and sustain thousands of jobs. On the other hand, serial corrector of the record over energy stats and career politician Humza Yousaf said that Rosebank would slow the pace of the transition. Whose analysis should the people of Scotland give more weight to?

**Màiri McAllan:** I will be very clear. It is a stretch to suggest that fields of the size of Rosebank—primarily for oil production as they are and primarily for export, as that oil is—could possibly contribute to a just transition. [Interruption.]

**The Deputy Presiding Officer:** Members, we need to hear the cabinet secretary's response.

**Màiri McAllan:** We in this Government have never advocated the switching off of the taps in the North Sea overnight; that would be the wrong thing to do for our workers and for the investment that is needed to drive the transition to net zero. However, investing in new oilfields such as Rosebank is not the answer either. We must invest in a managed and fair transition, putting people, industry and workers in the north-east first.

**Mercedes Villalba (North East Scotland) (Lab):** The offshore training passport was due to be launched by the end of this month but, with just two days to go, we are hearing reports that progress has stalled. Does the minister believe that the passport will go live in the next two days? If not, why not?

**Màiri McAllan:** The development of the OPITO offshore passport is an exceptionally complex piece of work—the complexities of which

Mercedes Villalba has consistently failed to recognise. Progress continues to be made. A review of standards mapping for the passport project is currently under way, with outputs to be considered by the project review group. For the record, that group is comprised of representatives from industry, trade body and trade unions. It will do that when it reconvenes later next month. We will have further clarity on delivery timescales for the passport when that very important part of the process has concluded.

### **Sheriffhall Roundabout (Objections)**

**6. Miles Briggs (Lothian) (Con):** To ask the Scottish Government whether it has received any recommendations from the independent reporter to consider any outstanding objections to the development of the A720 Sheriffhall roundabout in light of the public local inquiry, which took place at the beginning of February 2023. (S6O-02573)

**The Minister for Transport (Fiona Hyslop):** The Scottish Government has not yet received any recommendations from the independent reporter regarding the A720 Sheriffhall roundabout following the public local inquiry held between 31 January and 8 February 2023.

**Miles Briggs:** I am disappointed to hear that. People across Edinburgh and the Lothians and the south of Scotland will really want to know when those recommendations will be given to ministers and how fast we can see this progress. We need the A720 Sheriffhall roundabout to be upgraded. It has now been five years since it was included in the Edinburgh and south-east Scotland city region deal.

Will the minister agree to meet me and campaigners at the junction at the earliest opportunity to see the real need for this to be progressed and the junction upgraded as soon as possible?

**Fiona Hyslop:** I reassure Miles Briggs that we remain committed to delivering the grade separation of Sheriffhall roundabout as part of the commitment to the Edinburgh and south-east Scotland city region deal. As with all trunk road projects, a public local inquiry is the appropriate forum for the consideration of outstanding objections. As Miles Briggs is aware, there were a considerable number of objections. I am sure that he would respect the time that the independent reporter has to take to consider them.

In response to his invitation, it would be appropriate to first see the report and then take the opportunity, as appropriate, following its publication.

### **A82 (Improvements Appraisal)**

**7. Jackie Baillie (Dumbarton) (Lab):** To ask the Scottish Government whether it will carry out a Scottish transport appraisal guidance appraisal of the proposed improvements to the A82 between Tarbet and Inverarnan. (S6O-02574)

**The Minister for Transport (Fiona Hyslop):** I advise that, following Audit Scotland's investigation in November 2022, it confirmed that a STAG-compliant assessment has already been completed in line with appropriate guidance. Therefore, it would not be appropriate to carry out a reappraisal of the preferred improvement option, as that would unnecessarily repeat completed work, resulting in considerable delay and additional cost that would not provide any value to the Scottish taxpayer.

I can confirm that the Scottish Government remains committed to improving the A82 between Tarbet and Inverarnan and will continue to push forward with the necessary detailed design and assessment work.

**Jackie Baillie:** An approximation of a STAG appraisal is not a full STAG appraisal, which is yet to be carried out. There has been little consultation with key local groups, and it is also not appropriate to treat this as a standard road-widening exercise, given the sensitivity of the unique qualities of the landscape in Scotland's first national park. There is an alternative inland proposal that has not been properly considered. Given that a full STAG appraisal has not taken place, will the minister commit to giving it a full appraisal and looking at the alternative solution, so that we can get the best possible upgrade to the A82 between Tarbet and Inverarnan?

**Fiona Hyslop:** I appreciate the concerns that were raised and that people have different views. It is probably problematic for Jackie Baillie to disagree with Audit Scotland's recognition—its investigation in November 2022 confirmed that a STAG-compliant assessment had been done.

In the question session, we have already heard how important the A82 is, particularly for access to the West Highlands. When I was in Fort William, as well as the local issues that were raised about the A82, people raised the improvements that were needed at Tarbet and Inverarnan. We take the matter seriously, but we recognise that it is important that we get value for the public purse and that we should not repeat work. As I have outlined, it is important that progress takes place.

### **A96 (Safety Improvement Works)**

**8. Alexander Burnett (Aberdeenshire West) (Con):** To ask the Scottish Government what road safety improvement works have been planned for the A96 near Huntly. (S6O-02575)



**The Minister for Transport (Fiona Hyslop):**

Transport Scotland's operating company Amey is undertaking road safety improvements at the A920 staggered junction on the A96. The resurfacing of the junction was completed in September 2023, which included the installation of LED solar powered road studs to improve the visibility of the junction for approaching drivers. Road signs and vehicle restraint systems will shortly be improved, with the provision of two electronic signs to warn drivers when vehicles are turning at the junction. That work is programmed for completion by October 2023.

**Alexander Burnett:** Any action is better than nothing. However, implementing a few signs and repainting the road seems to be doing the work on the cheap. The A96 is the north-east's most dangerous road, with nearly 300 collisions over the past seven years. Just a fortnight ago, another two people were hospitalised after an accident near Huntly. A local petition to install a roundabout to replace the junctions has received more than 850 signatures. Can the minister confirm what it will take for the Scottish National Party Government to take action and commit to upgrading this dangerous road in full?

**Fiona Hyslop:** The First Minister set out our commitment to improvements in the programme for government. I would not diminish improvements as they are taking place—it is important that members support improvements in their local areas. As Alexander Burnett well knows, there is an on-going review into the A96, as was outlined by the First Minister at First Minister's questions today. We will take our commitment forward with the publication of the review.

**The Deputy Presiding Officer:** That concludes portfolio questions on transport, net zero and just transition. There will be a brief pause before the next item of business, to allow members on the front benches to change.

## Scotland's Future Energy System

**The Deputy Presiding Officer (Annabelle Ewing):** The next item of business is a statement by Gillian Martin on the vision for Scotland's future energy system. The minister will take questions at the end of her statement, so there should be no interventions or interruptions.

14:58

**The Minister for Energy and the Environment (Gillian Martin):** I will update the Parliament on the steps that we are taking to set out our vision for the future net zero energy system. Earlier this year, we consulted on the draft energy strategy and just transition plan. Today, we are publishing the responses to the consultation on the draft, along with the independent analysis report that was commissioned to examine the responses that were received.

That report confirms that there is broad support for our net zero vision and highlights the importance of providing policy certainty to enable the required investment in skills, infrastructure and technologies. The analysis report also shows the need to reach net zero in a way that fairly spreads the benefits and costs of decarbonisation across society. That is why our commitment to a just transition is so important. We are making funding of almost £5 billion available over the course of this parliamentary session in net zero energy transformation, including £1.8 billion to accelerate heat decarbonisation, with at least £465 million to support those who are least able to pay for the transition.

We are already making excellent progress in transforming our energy sector. Last week, I was delighted to launch the onshore wind sector deal, which is a great example of a shared commitment between Government and industry that will bring forward investment in skills and the supply chain. The sector deal is a key part of the Bute house agreement, and over the past two years the parties of Government have been working together to grow the renewables sector and to create economic opportunity and green jobs across Scotland.

There is still work to be done, however. Although we were pleased with the result for onshore wind in Scotland in the recent contracts for difference auction, the absence of offshore wind signals that the United Kingdom Government has failed to recognise the current market challenges that that sector faces. We urge the UK Government to address that disastrous outcome in time for the next allocation round.

As we have set out in the draft energy strategy and just transition plan, we believe that any new

extraction of fossil fuels must be subject to strict climate compatibility tests. Our focus must be on meeting our energy security needs, reducing emissions and delivering affordable energy supplies, while ensuring a just transition for our oil and gas workforce as North Sea resources decline. To achieve that, we need to harness the skills, talent and experience located in the north-east to support the build-out of net zero technologies in Scotland. We are already acting, for example, through our 10-year £500 million just transition fund, but the UK Government needs to play its part to enable that transition.

The electricity network will be critical to delivering the ambitions that are set out in the draft energy strategy and just transition plan. High levels of investment in electricity transmission infrastructure in Scotland and in the wider Great Britain electricity grid are required to ensure that clean and affordable renewable electricity is available where it is needed.

A significant amount of renewable generation in Scotland is currently constrained as there is not enough space on the electricity network to transport the power. Annual constraint costs across GB could reach up to £3 billion by the late 2020s. Those costs are paid for, in large part, by consumers across GB. Many of the network projects that are currently proposed in Scotland are aimed at lowering those constraint costs, as the cost of the infrastructure will be less than the potential costs of constraints.

Although network build is vital, it must be delivered with lasting benefits for our economy and for the people of Scotland. Scotland's natural endowment makes it an extremely attractive place to site renewable generation. We must translate that huge potential into sustainable jobs, community benefit, skills and local economic development. Investment in networks will play a crucial role in creating long-term high-quality green jobs that will attract and retain talent in communities across Scotland.

I am aware that communities in areas that may be impacted by proposed electricity network developments might have concerns about network infrastructure. As established in national planning framework 4, which was approved by the Scottish Parliament earlier this year, the views of local communities are of the utmost importance. It is vital that everyone has the opportunity to engage in decisions about future development. That engagement must happen as early as possible and should be effective, collaborative and meaningful.

NPF4 also ensures that appropriate checks and balances are in place, and that potential impacts on our environment and our natural heritage are fully assessed. I can assure Parliament that

potential impacts on communities, nature, landscape and other valued natural assets are very important considerations when determining applications for consent.

Despite the fact that the powers to mandate community benefits from renewable energy and grid infrastructure developments are reserved to the UK Government, we are continuing to work with communities and a wide range of energy businesses to maximise community benefit from existing and new developments. Some developers are already leading the way, and, as part of the onshore wind sector deal, developers have committed to meet or exceed the national benchmark that is set out in the "Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments" document.

I want network companies to take similar steps, and I have strongly encouraged the network companies to bring forward tangible benefits to communities where infrastructure is proposed. That includes measures that can have a positive impact on household fuel costs. I have urged the network companies to be creative in those solutions, and to work closely with communities to tailor them. I welcome recent initiatives in that vein, and hope to see yet more innovation and good community engagement on how community benefit can be best deployed in a way that meets the needs of communities.

We remain committed to a net zero future, and we will use every power at our disposal to support sustainable economic growth and maximise the opportunities of the green economy. That includes ensuring that the electricity network infrastructure comes with economic and social benefits for Scotland.

By publishing the analysis report on the draft energy strategy and just transition plan today, we are demonstrating the open and transparent approach that is central to a just transition. As set out in the programme for government, we will continue to engage with a range of stakeholders across Scotland, including the just transition commission and the Scottish energy advisory board, as we work towards the final publication by summer 2024.

**The Deputy Presiding Officer:** The minister will now take questions on the issues 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.

**Douglas Lumsden (North East Scotland) (Con):** I thank the minister for the advance sight of the statement, which rightly highlights the need for a transition—but not much else.

A recent report by the Robert Gordon University states that retaining the offshore oil and gas supply chain, its workforce and associated skills over the next five years will be crucial to the UK's successful transition to renewable energies. That is because there is limited capacity for the UK offshore renewables sector to take on board the

"skilled oil and gas workers impacted by the predicted decline in the hydrocarbon sector until later this decade."

The approval of Rosebank will help to manage that decline until more green jobs into which the workforce can transition are available. If we apply the brakes too quickly, the workforce will be lost and we will not have the people or skills to make the transition. The First Minister has condemned the approval of Rosebank. He wants to turn his back on £8 billion of investment and more than 1,000 jobs in his latest betrayal of the north-east. Does the minister support the First Minister's position? Would she, too, like to see the back of thousands of jobs, many of which are in her constituency?

**Gillian Martin:** I refute some of the language that Douglas Lumsden used in his question. No one is suggesting that any brakes be put on oil and gas. I am hugely supportive of our world-class oil and gas industry, and I agree that we should harness the substantial skills of the workers in that industry to take us to a net zero energy future.

I am concentrating my efforts on ensuring that oil and gas workers can see a sustainable future that takes us well beyond North Sea oil and gas. When a Government does not have plans for a long-term, sustainable future, what happens—*[Interruption.]*

**The Deputy Presiding Officer:** Minister, please resume your seat. I do not need constant questioning from a sedentary position. Douglas Lumsden posed his questions, and the minister is responding. Let us hear the minister, please.

**Gillian Martin:** I very much appreciate that, Deputy Presiding Officer.

When a Government does not have plans for a long-term sustainable future, what happens is that the next generation has no job prospects, communities are hollowed out, there is a huge negative impact on the physical and mental health of those communities, and generational poverty becomes endemic. I know that because that is what Mr Lumsden's party's lack of a just transition and short-term ideological thinking did to the communities of Clydeside, Lanarkshire, Fife, Ayrshire, Tyneside, Liverpool, Yorkshire, south Wales and more.

Yes, there will be jobs associated with Rosebank. As a north-easter, I recognise that. However, my job as energy minister for Scotland

is to ensure that there is life and there are jobs in the energy industry beyond the North Sea as it declines. The future is in an energy mix, and everything that the Tory-led UK Government does signals that it is neglecting to nurture the economic opportunities for the north-east and beyond that will rise from that.

**Sarah Boyack (Lothian) (Lab):** I thank the minister for the advance sight of her statement. However, it tells us nothing about how the Scottish Government's targets will be delivered.

The minister mentioned household fuel costs and that she hoped to see more innovation and community benefit. However, hope does not deliver. We need a route map to deliver now.

How many homes will be retrofitted this year and by the end of the parliamentary session? How many new jobs will be created across Scotland? Given the £40 million cut in university and college funding, how will the new training be delivered in our communities? Why has funding for households to access solar power been ended? What new funding will the Scottish Government provide to councils and communities so that they can deliver the engagement and the community and co-operative owned heat and renewables networks that will deliver investment to our communities and—crucially—tackle the fuel poverty that 38 per cent of our households now face?

**Gillian Martin:** I disagree that the statement that I just gave says nothing on those issues. I mentioned a significant development that will tackle quite a lot of that.

Sarah Boyack put quite a lot of questions to me. I point to the onshore wind strategic leadership group, which was vital in taking forward the policy aspirations for, and the development of, the onshore wind sector deal, which was published and signed last week. That deal will create pathways for long-term sustainable energy jobs and has commitments on skills provision, community benefits and helping to tackle fuel poverty across Scotland. There are many more such initiatives whereby the Government is working with industry to deliver on all the aims that will help us to get to net zero.

I also point to the impact that the new agency—heat and energy efficiency Scotland—will have: it will help householders with their fuel bills, deliver energy efficiency measures in homes and buildings and develop heat networks, as so many of our Nordic neighbours have. We will build on the initial work that has been done to make that a reality for a lot of households across Scotland.

**The Deputy Presiding Officer:** We move to back benchers' questions. We need to speed things up a bit, so I ask for succinct questions from

members and succinct answers from the minister, please.

**John Mason (Glasgow Shettleston) (SNP):** In her statement, the minister said:

“we believe that any new extraction of fossil fuels must be subject to strict climate compatibility tests.”

Did the UK Government apply such tests when it approved the development of Rosebank?

**Gillian Martin:** Mr Mason asks a question that he might have heard me ask yesterday in some of the media interviews that I did. I have no analysis from the UK Government of the climate and energy security conditions that applicants had to meet. If I had that, I would be very interested to see exactly what the conditions were. I would also be interested in seeing what details the developers provided. I would be happy to engage with the developers—I have spoken to them in the past—on what they might do above and beyond the conditions.

Equinor and Ithaca Energy have the licence. I feel optimistic because they now have a job to do to prove to civic Scotland and the wider UK that they recognise some of the criticism that came out yesterday. It would be interesting to see what they will be doing to reduce their production emissions.

Everyone recognises that the majority of what will be extracted from Rosebank will go overseas. It is 82 per cent oil—

**The Deputy Presiding Officer:** Minister, I really need to encourage more succinct comments.

**Gillian Martin:** I will leave it there.

**The Deputy Presiding Officer:** Thank you for your co-operation. I appreciate that a number of points are always put, but we have several members to get through.

**Graham Simpson (Central Scotland) (Con):** We need a base load, and nuclear power should form part of the mix across the UK. The minister has not mentioned nuclear at all. What lessons has she learned from the German nuclear phase-out, as a result of which that country is burning more coal than anyone else in Europe?

**Gillian Martin:** I refer Graham Simpson to yesterday's *Official Report*, as I gave his colleague Sandesh Gulhane a full answer about why the Scottish Government does not believe in nuclear energy. I told Dr Gulhane about the price differential between nuclear energy and offshore wind and I listed the raft of European countries that have turned their backs on nuclear energy in favour of renewables.

**Alasdair Allan (Na h-Eileanan an Iar) (SNP):** With an interconnector due to be in place for 2030, the Western Isles are set to host significant

renewables developments over the next decade. Considering the fact that my constituency has the highest level of fuel poverty, does the minister agree that a just transition must mean that those communities see substantial benefits from hosting such developments?

**Gillian Martin:** I absolutely agree with that and that is one of our asks. We are working with the sector on the onshore sector deal. I was very clear that one of our asks of the industry and the sector was to improve the type of community benefits that they were putting forward. I extend that ask to all energy sectors wherever possible.

Dr Allan will be interested to know that I not only made suggestions similar to the one in his question—about working closely with communities to develop tangible benefits that would improve the situation of householders with regard to fuel poverty—but raised the suggestion of investment in local housing stock to keep young people in areas that have significant issues with young people leaving. After all, potentially it will be the young people of rural Scotland who will deliver on some of those energy infrastructure projects. As Dr Allan knows all too well, housing is a real issue for those areas.

**Colin Smyth (South Scotland) (Lab):** In 2010, Alex Salmond told us that Scotland would be the Saudi Arabia of renewables, with 130,000 green jobs by 2020, but less than a fifth of those were created. No wonder the Scottish Trades Union Congress consultation response said that workers have “little faith” that their livelihoods will be protected. Can the minister tell us exactly how many green jobs will be created as a result of the Government's energy plan? How many will be in Scotland and not offshored to overseas firms, like most of the ScotWind leases?

**Gillian Martin:** I thank the member for the opportunity to outline our projected model on that. The number of low-carbon jobs is modelled to rise from 19,000 in 2019 to 77,000 by 2050, with the right support and as a result of the just energy transition delivering a net gain in jobs across the energy production sector overall. Of course, we want the vast majority of those jobs to be for Scottish workers.

**Marie McNair (Clydebank and Milngavie) (SNP):** The UK Government's latest contracts for difference round received no bids for offshore wind projects. Now, Rishi Sunak has pulled the rug from under the net zero ambitions of the UK and Scotland. All of the evidence tells us that we can protect and create jobs in Scotland if we ensure that we get the energy transition right and help to cut energy bills and emissions at the same time. What are the biggest barriers that are holding back that massive potential and preventing our energy future delivering for the people of Scotland?

**Gillian Martin:** I thank Marie McNair for outlining that, because the absence of offshore wind from the latest contracts for difference round signals that the UK Government has failed to recognise the current market conditions in the renewable energy space. The offshore wind sector is asking for a more realistic strike price. The outcome raises serious questions about the UK Government's approach to safeguarding energy security, breaking our reliance on imported energy and, critically, doing everything possible to ensure that the energy sector can capitalise on the enormous economic and societal opportunities.

We have an ambition in Scotland for ScotWind to put 28GW of renewable electricity into our grid. Without any kind of certainty from the UK Government or recognition that that situation has to be nurtured and that the conditions have to be right for those bids, we are really running the risk that a lot of developers will walk away from offshore wind projects not just in Scotland, but across the whole of the UK.

However, I have been speaking to UK Government ministers about it and I have faith, because the sector is saying exactly the same as I am—the UK Government will look at what has happened in allocation round 5 as being a mistake and, when AR6 comes around, that situation will be rectified.

**Liam McArthur (Orkney Islands) (LD):** Dr Allan rightly pointed to the huge offshore wind potential of the northern isles and Western Isles. It is a huge opportunity, but questions remain about how best to realise that and who will benefit. At present, island communities that boast local experience and expert supply chains feel that they have been excluded by those who are planning the energy revolution. Will the minister agree to work with island supply chain experts, such as the Orkney Renewable Energy Forum and the European Marine Energy Centre, to bring essential local knowledge and expertise to the table and ensure that our islands are not denied the full benefits of their world-leading renewables potential?

**Gillian Martin:** That is an easy question to answer, because I absolutely want to work with the organisations that Liam McArthur has just outlined. I am, as they say, champing at the bit to get myself up to Orkney to visit EMEC and all the other organisations. My cabinet secretary was there in the summer, but I did not have the opportunity to go up then. As is usual when I end up visiting Orkney and Shetland, it will probably be the winter months when I am able to do so. However, if that is an invitation, I am absolutely up for accepting it.

**Mark Ruskell (Mid Scotland and Fife) (Green):** I welcome the statement, and the

onshore wind sector deal in particular, which, as the minister has alluded to, is at the heart of the Bute house agreement. It looks as though, through that deal, there will be a doubling of onshore wind capacity in Scotland, which means that many of our existing wind farms will need to be repowered or extended. That could provide the opportunity to renegotiate community benefit payments, which for many existing wind farms are at quite a low level—the payments are only around £1,000 a megawatt for many wind farms in my constituency.

Are there opportunities to maximise community benefit payments through renegotiation, so that we can get transformative investment in communities—for example, in housing, as the minister mentioned to Dr Allan—which we really need from renewable energy developments across Scotland?

**Gillian Martin:** That is a really good suggestion. I genuinely think that the sector will be up for negotiating on that point. One of the issues that we have had with the earlier iteration of onshore wind developments is that the community benefits have not been as substantial as they could have been. Across communities, we are seeing that the reputation of the initial developments has not been so great.

With the onshore wind sector deal, I have absolute faith that that will change. We are absolutely clear that renewable energy must benefit people across Scotland. More than £25 million of community benefits from renewables projects has been committed to Scottish communities over the past year, and that will continue to rise. Time and again, I say to the sector that the nature of the community benefits and the offers that are made must work. Communities must be engaged early in deciding what those benefits should be, and they should be tangible benefits that impact on householders.

**Emma Harper (South Scotland) (SNP):** Last week, I spoke at a conference at Our Dynamic Earth to discuss the importance of using anaerobic digestion to produce clean energy, which agriculture has huge potential to achieve. Given that the Scottish Government has committed to exploring increasing energy output from such innovations, will the minister comment on how that will be achieved and whether she will work with our agriculture sector to fulfil that huge potential for clean energy?

**Gillian Martin:** I met one of our colleagues from that event the next day, and we talked about that subject. Waste resources can be processed through anaerobic digestion to produce energy that can be used as a fossil fuel replacement. Biomethane for gas grid injection is becoming increasingly common. It provided 920 gigawatt

hours in 2022 and is the second-largest contributor to renewable heat output.

To deliver on the ambitions that are set out in the Scottish Government's vision for agriculture, we will have a support framework that delivers high-quality food production, climate mitigation and adaptation. I see use of anaerobic digestion to produce biogas and biomethane as part of realising that ambition.

**Tess White (North East Scotland) (Con):** The minister is aware that Scottish and Southern Electricity Networks intends to construct a substation in the Mearns and to install new overhead lines. There are huge implications for farming, tourism, property and wildlife habitats in the area. Does the minister agree that new energy infrastructure projects must always be completed with the consent of residents? Will the minister confirm that no attempt will be made to override the concerns of local communities in Scotland following the Scottish National Party's failed attempt to amend the UK Government's Energy Bill?

**Gillian Martin:** Tess White will understand that, as the minister who has responsibilities for consents, I cannot talk about individual applications. However, she makes a very good point. It is in the interests of developers to engage with communities early. That is what the onshore wind sector deal does with regard to onshore wind development, but, of course, that also applies to electricity infrastructure. The developers are doing themselves a disservice if they do not engage thoroughly and early with the communities that might be affected by that infrastructure.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** Members will know that Scotland has an abundance of water, and there is certainly potential for more small-scale hydro power schemes. What actions will the Scottish Government undertake to assist with the delivery of more small-scale schemes?

**Gillian Martin:** Hydro power has the potential to play a significantly greater role in the energy transition. That is true at both the small scale—in co-operation with local communities, as part of the provision of resilient energy supplies in remote parts of Scotland—and at a larger scale for providing flexibility to the grid.

Stuart McMillan will be interested to know that I went to Scotland's oldest hydro power station, in Cruachan, in the summer. I very much enjoyed hearing about the part that hydro plays in situations of intermittent supply and, indeed, in emergencies, when it can fill gaps in supply to the electricity grid. I think that not enough has been done—certainly not by the UK Government—to support that particular energy sector, which is

crucial to security of supply. There needs to be an awful lot more assistance.

There is also a great deal of potential in small-scale schemes. That is why we have, through our community and renewable energy scheme, support for communities that want to establish their own hydro schemes.

**The Deputy Presiding Officer:** I call Liam Kerr, and I propose then to call Stephen Kerr. I would like to have brief and succinct questions and answers with both.

**Liam Kerr (North East Scotland) (Con):** The minister said yesterday that the reason why allocation round 5 of contracts for difference failed to get any offshore wind bids was that it was underpriced at £44 per megawatt hour, but she went on to suggest that such wind power could be produced in Scotland for only £37 per megawatt hour. Those statements cannot both be true, so will the minister clarify them? What CFD price she would set?

**Gillian Martin:** I am not going to put a value on a CFD price. In general terms, in AR5, developers stayed away from the offer that the UK Government made. It now has to work with those developers to make sure that, in AR6, it has people who want to apply for the licences and CFDs. As Liam Kerr has shown such an interest in this issue, maybe he can use any influence that he has with the UK Government and stand beside me and the sector in making that a reality.

**Stephen Kerr (Central Scotland) (Con):** The minister has just shown how difficult it is to set such a price.

I was heartened to hear her say—I presume that this is a Government statement of policy—that she has no willingness to put the brakes on oil and gas. Does she agree that it is pointless to oppose or object to the Rosebank oil field licence, as her party colleague Dave Doogan said on the BBC yesterday?

**Gillian Martin:** I have listened to quite a lot of Scottish Tories talking about this issue over the past couple of days. It has been very helpful to listen to media interviews with Scottish Tories, in which they have been called out for a lot of their ridiculous mythical claims about what Rosebank will give the UK—and, indeed, Scotland—in terms of energy security. The journalist Alex Thomson, from Channel 4, said:

"You can also ignore any politician who says Rosebank will give UK energy self-reliance. Unless the Govt nationalises oil industry the oil (developed by Norway) just gets sold on global market. Makes zero difference to your energy bill unlike home developed renewables".

It is also a myth to say that it will bring down fuel bills. Alex Thomson also said that

“The taxpayer bill for developing the oilfield ... will be around £4billion. That cash would insulate”,

and provide heat pumps for, an awful lot of British homes.

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

## Trusts and Succession (Scotland) Bill: Stage 1

**The Deputy Presiding Officer (Liam McArthur):** The next item of business is a debate on motion S6M-10595, in the name of Siobhian Brown, on the Trusts and Succession (Scotland) Bill at stage 1. I invite members who wish to speak in the debate to press their request-to-speak buttons now or as soon as possible. I call Siobhian Brown to speak to and move the motion for around eight minutes.

15:30

**The Minister for Victims and Community Safety (Siobhian Brown):** I value greatly the law reform work that the Scottish Law Commission undertakes to simplify and improve our laws, and I remain committed to introducing bills to implement its recommendations.

The Trusts and Succession (Scotland) Bill, which we are discussing today, is the second SLC bill that the Government has introduced in this session. The most recent programme for government included a commitment to introduce a third SLC bill this year, which will be the eighth SLC bill in a decade, since Parliament updated its rules in 2013.

I recently wrote to the commission to say that my officials had begun detailed work on another three SLC reports—on leases, contract and cohabitation—although decisions on the legislative programme are a matter for Cabinet to decide as part of the development of the annual programme for government.

I thank the Scottish Law Commission for the work that it does and, in the case of trusts, Lord Drummond Young, who is not only a former chair of the SLC but is the lead commissioner who prepared the report on trust law reform and whose recommendations the bill will implement.

I also thank the members and clerks of the Delegated Powers and Law Reform Committee for their work in scrutinising the bill and for the comprehensive and measured stage 1 report. I welcome the committee's agreement to the general principles of the bill.

Trusts are an important legal structure in Scotland. In modern society, they are used as a solution in an incredibly wide variety of situations, as we have all heard from the evidence that has been given to the committee so far. They are used extensively in individual estate planning, and to protect and administer assets on behalf of vulnerable people, including children, adults with incapacity and people with disabilities. They are also the legal form of many pension funds and are

often used in commercial transactions to set funds aside to deal with future liabilities.

Scots law has not kept up to date with the variety of ways in which trusts are used. The principal trust law legislation is now more than 100 years old and was drafted at a time when society was very different. The aim of the bill is to modernise the law of trusts; it takes forward all the substantive recommendations for reform that the SLC proposed.

**Stephen Kerr (Central Scotland) (Con):** The minister could perhaps address the issue that the Law Society of Scotland raised, which said that the bill is a missed opportunity

“to enact legislation on the nature and constitution of trusts”

and talked further about the need for a legal definition, and the

“nature of a trust in Scots law; rules for creation; special rules for “trustee as trustee” trusts; latent trusts”

and so on. The Law Society feels that there are many things that the bill does not contain. Why does the bill not contain any of the things that the Law Society of Scotland mentioned in its submission to all of us?

**Siobhian Brown:** I saw that report yesterday. There was a lot in that question, which I will come to further on.

Given the versatility of the trust and the uses that it is put to, the bill will ensure that trust law is clear, coherent and able to respond appropriately to modern conditions. Some of the key changes that the bill makes are: changing the method for appointing and removing trustees, including the introduction of a non-judicial method for removing trustees; reforming the powers and duties of trustees, including setting out trustees’ duty of care; and the introduction of a number of important powers that will be conferred on the court, including a new power to alter trust purposes after a period of 25 years has elapsed.

Stakeholders have broadly welcomed the bill and its policy intent. Although many of them have been positive, I am aware that points of detail have been raised, which have been identified in the committee’s report.

The committee heard evidence from a number of academics and legal professionals about the investment power of trustees. The bill largely restates the existing statutory investment powers of trustees. In general, wide powers of investment are conferred on trustees, and they are tightly constrained by the trustees’ duties, including their duty of care and fiduciary duties. Stakeholders would like to see something in the bill about the ability of trustees to reflect environmental, social

and governance goals in their investment decisions.

**Martin Whitfield (South Scotland) (Lab):** I am grateful to the minister for giving way. One of the areas of concern is the interrelationship with charities law, whether it be parallel or whether it crosses. Will the minister also be able to deal with that in her opening speech?

**Siobhian Brown:** I will come to that.

I have heard that the bill containing an express provision on such an ability would be helpful in making it clear that, when assessing the suitability of an investment for a trust, financial returns are not the only consideration that might be taken into account. Environmental and social impacts, for example, could also be relevant considerations. I will consider that further and am looking forward to working with the committee on that.

Another issue that the committee raised is the expenses of litigation. Awards relating to litigation expenses are made at the discretion of the court. When an award is made against trustees, normally the trustee would be personally liable, but they have the right of relief against the trust estate, provided that the expenses are necessarily, properly and reasonably incurred. The bill will alter that: trustees will no longer be personally liable for expenses. The court can, however, impose on trustees personal liability for such expenses in certain circumstances. That includes when the trust property is insufficient to meet the expenses, or when the trustee has brought about the litigation by breach of duty.

As some stakeholders have pointed out, trustees of underfunded trusts have an unfair advantage in raising litigation without being personally liable for expenses. The result would be that a successful litigant would be forced to meet expenses themselves. I have heard the strong statement made by the Law Society that that might put people off accepting office and will act as a disincentive to trustees litigating. During the summer, my officials met the Law Society and the Society of Trust and Estate Practitioners to hear more about their concerns, and I will take the issue away and consider what more can be done in the bill to achieve a better balance between the personal liability of trustees and the problem of underfunded trusts litigating.

Another issue that the committee raised is how “incapable” is defined in the bill. The bill takes a slightly different approach to that which is found in incapacity legislation, and the concern was raised that the two approaches could deviate unacceptably, as future reforms are made. I recognise the problem and I thank the committee for its work on the matter. I will look at the issue



again and consider what can be done to lessen stakeholders' apprehensions.

Finally, I would like to talk about succession, because this is the Trusts and Succession (Scotland) Bill. Two provisions on succession law are included in the bill. One is technical and is intended to clear up potential confusion with the drafting of a section in the Succession (Scotland) Act 2016. The other is more substantive. It makes changes to the order of intestate succession so that the spouse or civil partner of a person who has no children and dies without leaving a will would inherit the entire estate of the deceased person. That change reflects what many people would expect happens already but is not, in fact, reflected in the current law.

I am committed to finding a solution to one issue that is not included in the bill. It involves circumstances in which an unlawful killer is appointed to be an executor of their victim's estate. The existing law on that is unclear, which is why I instructed my officials to consult targeted stakeholders over the summer. The aim was to test two models that might provide a solution to a deeply upsetting situation. It is important that whatever we put in place is capable of working in practice because we do not want a situation in which the deceased's estate cannot be administered or its administration is called into question. I have kept the committee up to date on that issue and I will continue to do so.

I move,

That the Parliament agrees to the general principles of the Trusts and Succession (Scotland) Bill.

**The Deputy Presiding Officer:** I invite Stuart McMillan to speak on behalf of the Delegated Powers and Law Reform Committee.

15:39

**Stuart McMillan (Greenock and Inverclyde) (SNP):** I thank everyone who has contributed to the committee's scrutiny of the bill, whether in writing or by appearing before the committee during one of our evidence sessions. I also thank the minister and her officials for the evidence that they have provided to the committee and for the response to our stage 1 report, which came in yesterday. I also thank the Scottish Law Commission for proposing the bill. In addition, I thank my fellow members of the committee for their enthusiasm and tenacity in grappling with some of the issues raised by the bill—I will come on to the one that was touched on by the minister later in my contribution—and the committee officials, who have provided excellent assistance to us.

We are clear that the bill proposes important reforms that will benefit people across Scotland.

As members will be aware, one of the responsibilities of the Delegated Powers and Law Reform Committee is to scrutinise certain Scottish Law Commission bills, which can often be perceived to be quite technical. I believe that the committee's scrutiny of the Trusts and Succession (Scotland) Bill, as well as proving to be interesting, showed the importance and relevance of the bill to everyone who lives in Scotland.

At the outset of the debate, it is important for members to consider how important trusts and succession law are for our constituents. A trust is a legal device for managing assets through which a person or—to use the technical term—a trustor passes assets to the trustees. Normally, that is for the benefit of individuals known as beneficiaries. Beneficiaries can include small defined groups or individuals, or large numbers of people and organisations. Trusts are frequently used to help to manage estates after a death, and they are used by community-based groups and organisations such as churches and charities, as well as individuals, for a raft of reasons.

There was almost universal support for the proposed reforms in the bill. Stakeholders reaffirmed to the committee how important trusts are. The Scottish Law Commission told us that trusts "permeate Scottish society". We also heard that the reforms represent a significant improvement on existing trust law, which is more than 100 years old. Consequently, it is very difficult to use and understand. That is particularly the case for laypeople who become trustees.

Succession law, which is sometimes called inheritance law, sets out who should inherit someone's money, property or possessions in the event of a death, which we know will come to every one of us. The bill's fairly modest provisions on succession were generally welcomed by stakeholders.

Despite the support that we heard expressed for the bill, the committee also heard that there is room for improvement, and it made a number of recommendations, some of which I will now touch on.

**Stephen Kerr:** We all owe the Delegated Powers and Law Reform Committee a debt of gratitude for the work that it has done on the stage 1 report that has been presented to the Parliament.

Given what the convener has said, why did the committee feel that a full codification of the law on trusts, which I mentioned in my intervention on the minister in relation to the Law Society of Scotland's submission, was not appropriate at this time?

**Stuart McMillan:** I stand to be corrected by members of the committee who are present in the

chamber, but, from memory, I think that that was because of the length of time that such a codification would take and the challenge that it would present for the Government and the Parliament to get that right. There was no shortage of will or desire for that to happen, but it was felt that the length of time that it would take would have delayed the implementation of the bill. If I am incorrect about that, colleagues will undoubtedly correct me.

One area in which improvement was thought to be possible concerned the new power in the bill for a majority of trustees to be able to remove another trustee on certain grounds, including when that trustee is deemed incapable, which the minister touched on. Although witnesses generally supported that provision, some stakeholders told the committee that they had concerns in relation to the potential for abuse, the subjective nature of the process of assessing incapacity and the burden of placing the assessment of capacity on trustees who might feel unqualified to take on that role.

The committee acknowledged that there is a route through the court for someone who has been deemed incapable to challenge their removal based on incapacity. However, we felt that the route might not be clear or obvious to a trustee in that situation. Therefore, the committee hopes to see changes to the bill, including specific reference to the right of a trustee deemed incapable by fellow trustees to go to court to challenge that decision. The committee considered that that might be helpful to someone who found themselves in that situation. We also considered the future proofing of that aspect of the bill, because of the different definitions of incapacity that exist.

The committee was able to scrutinise the bill's potential interaction with Scotland's journey to net zero. An issue that was raised with the committee was whether wording should be included in the bill to expressly permit trustees investing trust property in the absence of any relevant provision in the trust deed to choose so-called ESG—environmental, social and governance—investments. Those are considered to be more sustainable investment choices, chosen based on their environmental, social and governance credentials, even if they might not lead to the maximum possible income for the trust. One witness, Yvonne Evans, suggested that that would be an “attractive and modern” approach to supporting Scotland's net zero goals. However, some witnesses thought that that power might already exist.

The committee therefore recommended that the bill be amended to explicitly allow trustees, subject to the terms of the trust deed, to choose to invest in ESG investments, and we look forward to

working with the Scottish Government to make that happen. We welcome the minister's response in that regard.

The committee heard stakeholders including the Law Society of Scotland express concerns about the bill's default position on the personal liability of trustees for court expenses in cases in which the trust property is insufficient to cover such trusts. The Law Society pointed out that

“Non-recovery is a standard risk of litigation”

and that it is unclear why the situation should be different in litigation involving a trust compared with that involving, for example, a company.

I turn to issues that are not currently included in the bill. Unlike in the original draft bill from the Scottish Law Commission, the definition of “trust” in the bill does not include pension trusts, which concerns some stakeholders. However, the Scottish Government has confirmed that it is in talks with the United Kingdom Government to grant an order under section 104 of the Scotland Act 1998 to apply the changes that are proposed in the bill to pension scheme trusts.

As colleagues on the committee know, I highlight section 104 orders regularly, because, as with the Moveable Transactions (Scotland) Bill and with this bill, there can be a delay of between 12 and 18 months in getting the section 104 order through the system. I welcome the fact that the Scottish and UK Governments are in discussions on that part of the bill, and I hope that progress will be made more quickly than 12 to 18 months. The committee recommends, as a priority, the timely implementation of the section 104 order to ensure that commencement of the bill is not delayed and that there is no need for an undesirable dual operation of trust laws.

On issues in relation to succession law that are not covered by the bill, some stakeholders considered that the bill should be amended to clarify that the law does not permit an unlawful killer to be an executor of their victim's estate. If unlawful killers are appointed as executors, even if they cannot inherit under the existing law, their continued personal contact with the victim's family under the guise of winding up the estate could be considered distressing, which it would be. The committee therefore recommended that the bill be amended to clarify that the law does not permit an unlawful killer to be an executor of their victim's estate. Furthermore, the committee considered that, notwithstanding the presumption of innocence, it would appear to be inappropriate for a person who was charged with murder or culpable homicide to act as executor during the course of their prosecution. The committee spent a great deal of time on that matter. We all wanted

to get to the same point, and we all recognised that it is a challenging aspect to get right.

If the bill successfully proceeds through the Parliament, it will help our constituents in every part of the country. It will not fix the problems that many people who have been stung by the McClure Solicitors fiasco face, but I hope that it can prevent many more people from being stung and out of pocket in the future.

We look forward to working with the Scottish Government in advance of stage 2. I commend the committee's stage 1 report to members.

15:49

**Oliver Mundell (Dumfriesshire) (Con):** I begin by apologising to members for participating remotely. I had planned to be in Parliament in person, but I have had flu symptoms and a temperature overnight and felt it best not to bring that to the chamber.

I say at the outset that Scottish Conservatives will support the bill at decision time and that we endorse the Delegated Powers and Law Reform Committee's report. Although the law affecting trusts may not be at the top of the political agenda, it is clear from the work that has been undertaken by the Scottish Law Commission, the Scottish Government and, latterly, by the committee itself, that, more than a century since the last major reform, modernisation of the law is not only desirable but badly needed and broadly supported.

As it stands, the bill represents a significant step forward, but detailed work is still needed to ensure that the legislation is workable and to address the concerns of key stakeholders. The committee noted that work remains to be done in a number of areas of the bill and was sympathetic to stakeholders' concerns about parts 1 and 2 of the bill.

More generally, a matter that I pressed the minister on at committee is that there is a feeling in some quarters, especially after having waited 100 years for change, that the bill misses the opportunity to do more, particularly with regard to maximising the codification of trust law. My colleague Stephen Kerr asked the convener why the committee is content to proceed with the bill when those concerns have been raised. One reason for doing so, as Stuart McMillan said, is that starting substantive new work on the bill would have caused delays. There was also strong evidence from a number of witnesses, including the SLC, that some areas of trust law are not settled and that case law is not sufficiently established to support full codification.

I remain keen to see more codification and note that the Law Society of Scotland's briefing for today's debate argues that more could be said about the nature and constitution of trusts. Like the Law Society, I would be interested to hear more from the Scottish Government about the other options that it is looking at to take that work forward outside the scope of the bill and, in particular, to define different types of trust. I would be keen to hear more from the minister about that in closing.

I move to some particular issues that need further attention.

**Martin Whitfield:** With regard to the issue of charities, which I raised earlier, is the member concerned about the challenges for some charities, many of which are fundamentally based on trusts and which may find some elements of the bill confusing?

**Oliver Mundell:** I share that concern, which is something that the committee thought about, and I know that other committee members are also concerned. The landscape is complicated, which is why one of the key recommendations in our report is that good guidance should be available. We recognise that many people who are involved in trusts do so as volunteers or do not have detailed experience or understanding of the law. Anything that the Government can do to provide clarity is really important.

I move to some key issues. Although this is an SLC bill, it is important that the Scottish Government and the minister take ownership to ensure that any concerns or suggested improvements that have come to light through the parliamentary process are acted on, fully considered and, where possible, incorporated into a strengthened final bill. It may be tempting to think that it will all fall back on the SLC or others. However, I am pleased that, as we see in the minister's response to the stage 1 report, the Scottish Government seems to be taking an active interest in resolving some of the committee's concerns.

In her remarks, the minister touched on section 65, which is on litigation expenses. I emphasise that the concerns about that, which the committee discusses in its report, continue. The Law Society of Scotland was quite outspoken on section 65 in its written evidence. It stated:

"This is quite a radical provision. There are real issues with the default being that the trustees personally pick up the liability for expenses where the trust property is insufficient unless they can show that would be unfair. This may put people off accepting office and will more than likely be a disincentive for trustees to litigate".

Section 65 gives me cause for concern on two grounds. First, I am not sure that SLC bills are the

place for radical provisions and major departures from existing practice. Secondly, I am concerned about the practical implications that the provisions may have, with individual trustees potentially being left protecting their own financial interests rather than doing what is best for the trust. I understand that there is a fine balance to be struck, but I believe that section 65 needs further work and clarification. I welcome the confirmation that the minister is considering the provisions and I hope that the Government will lodge amendments at stage 2 to make them absolutely clear. I am also keen to understand the evidence on underfunded trusts entering litigation, and to get a sense of how much of a real problem that is at present. I have not seen that or heard any real evidence of it.

I also draw the minister's attention to section 61 and the 25-year limit. Again, I am pleased that the Scottish Government has welcomed the committee's recommendation on that, and I understand that the matter is being considered with a view to an amendment being lodged at stage 2 regarding the circumstances in which an application may be made to the court.

Although a range of views were expressed, the committee agreed that, on balance, the 25-year period in the bill is appropriate. However, we stated that we would like a caveat to be added that would allow the court to permit alteration of the 25-year period in exceptional circumstances. That would enable the law to capture, for example, circumstances that were not reasonably foreseeable at the time when the trust was created but which are detrimental to the operation of the trust. That seems pragmatic and it would strengthen the bill.

I also flag up the on-going concerns about incapacity, which were mentioned by the convener and touched on by the minister. There are concerns about how incapacity is defined in the bill and how things will work in practice. I am sure that other members will cover those in further detail, but I am clear that amendments are needed in that regard if we are to have confidence that we have got the legislation right.

I commend the committee's stage 1 report, which covers those and many other aspects of the bill in much greater detail than I have managed to do in the time allotted today. It is clear that we have an important and much-needed piece of legislation in front of us. I hope that, through stages 2 and 3, we can get to a point where we can all be confident in it.

15:58

**Michael Marra (North East Scotland) (Lab):** Scottish Labour welcomes the Trusts and Succession (Scotland) Bill and is grateful to the

Scottish Law Commission for its body of work on both trusts and succession. Those in the legal profession have had to work around the complexities and more arcane aspects of the Trusts (Scotland) Act 1921 for many decades, and a new act that reforms and clarifies some aspects of the law relating to trusts for the 21st century will be most welcome.

We are grateful to the many representatives of the legal profession who gave evidence on the bill. I also place on the record my and Labour's thanks to members of the Delegated Powers and Law Reform Committee for their scrutiny of the bill thus far.

Although the bill has broadly been supported by stakeholders and, indeed, by the committee, there remain questions for the minister and her Government to answer with regard to the trusts reforms.

Given that inconsistencies with the Adults with Incapacity (Scotland) Act 2000 were noted, will changes be made to the definition of "incapacity"? I would love clarity on that.

What clarifications will be provided on trustees' duties to provide information, and exactly what information must they provide?

I welcome the minister's confirmation that she would ask the UK Government for a section 104 order so that pensions could be included in the scope of the bill. In the event that the bill passes, I urge both Governments to work constructively to that end. Too often, in this country, good governance suffers from the inability of the Scottish and UK Governments to put aside political grievance and work together for the better ends of all Scots. In this case, I hope that that does not happen.

If we are able to pass into legislation a bill that provides a single coherent statute on trusts, we will have served well not just the legal profession but all those who make use of trusts. There has been some commentary so far on the great extent to which citizens and institutions across Scotland rely on trusts.

When it comes to succession, the reforms that are included in the bill are certainly welcome. It is right that the bill takes cognisance of modern attitudes. When a person dies intestate and without children, the bereaved spouse or civil partner should inherit their estate. At a time of great loss, the law should not add to the burden of the bereaved.

As the Law Society raised, there remain some uncertainties about what happens if a person dies intestate while separated from their spouse or civil partner. It would be helpful if the minister could

provide further clarity on the Government's position on that.

It is clear that work is still to be done on the bill in order for it to be a comprehensive piece of legislation on trusts and succession. Our colleague Stephen Kerr has already raised those issues, which were raised with us by the Law Society.

In addition, the Scottish Parliament information centre has pointed out that part 2 of the bill would leave unimplemented much of the Scottish Law Commission's work to date on succession law. In 2020, the Scottish Government said that it would legislate at the "next legislative opportunity" on banning a person who is convicted of unlawful killing from being an executor of their victim's will. In February this year, the Scottish Government reiterated its commitment to that reform. I was glad to hear the minister acknowledge in her opening statement that the bill as it stands does not put that scenario beyond doubt. There is a clear opportunity to make good on the Government's commitments and to put that in place.

During scrutiny of the bill, the minister told the committee that she would explore what could be done in that context to ensure that the law is clarified, and she has reiterated that today. Stuart McMillan made strong comments on the issue, and there would be broad support for dealing with it. Although the number of cases may be small, I am sure that we all agree that such a situation would be intolerable for the family and loved ones of a victim. I therefore urge the Government to remove without delay what is a cruel and untenable anomaly of our legal system.

I look forward to the rest of the debate. Labour supports the principles of the bill as it stands, but we believe that there is scope for amendment. I look forward to other members' contributions.

**The Deputy Presiding Officer:** Before we move to the open debate, I give a gentle reminder that members who participate in the debate need to remain in the chamber for the opening and closing speeches.

I call Bill Kidd, to be followed by Stephen Kerr. You have around four minutes, Mr Kidd.

16:03

**Bill Kidd (Glasgow Anniesland) (SNP):** Thank you very much, Presiding Officer. I do not know whether my contribution will even take that length of time, but I will try.

It is a pleasure for me to speak today as a member of the Delegated Powers and Law Reform Committee and to ask that the Parliament

agree to the general principles of the Trusts and Succession (Scotland) Bill at stage 1.

In our stage 1 deliberations, members of the committee broadly welcomed the bill. In our report, we noted that there was widespread support for the bill among stakeholders, acknowledging in particular the importance of trusts in Scotland, alongside the need for the law to be modernised.

As we have heard, our statutory law on the management and administration of trusts is now more than 100 years old and has its roots in a very different era from ours. It is clear that the law in that area has not kept pace with how society has changed and developed, and the bill will bring the legislation into the 21st century.

Of course, although we are supportive of the aims of the bill, we also listened to concerns raised by stakeholders, and I am confident that our approach to the bill at stage 2 will address many of those concerns. Specific concerns were raised regarding the bill's potential interaction with Scotland's journey to net zero. I assure stakeholders that the committee looks forward to addressing those concerns by working with the Scottish Government to amend the bill to explicitly allow trustees, subject to the terms of the trust deed, to choose to invest in ESG investments.

We also heard concerns raised by stakeholders about the bill's default position on the personal liability of trustees for court expenses in cases in which the trust's property is insufficient to cover any such costs. Our view is that the starting point should be that there is no personal liability on the part of trustees for expenses unless the court deems otherwise, and we look forward to discussions with the Scottish Government regarding considerations as to whether an amendment is required to reflect that.

One issue of possible concern that is not currently covered by the bill, but which I would like to mention for the record, is that of the need for the inclusion of a pension trust in its definition of "trust". In that regard, we urge the Scottish Government and the UK Government to grant a section 104 order to apply the changes proposed in the bill to pension scheme trusts. We hope that the Scottish and UK Governments will work in close collaboration to that end in order to ensure a smooth enactment of the bill.

I will end by re-emphasising what the convener, Stuart McMillan, said. Although the Trusts and Succession (Scotland) Bill is a technical bill, I hope that members will agree that the committee's scrutiny has shown it to be anything but dull. Instead, we have shown that the bill has proved to be an interesting and important piece of legislation that proposes to modernise the existing outdated trusts legislation. We are clear that the bill

proposes important reforms that will benefit people across Scotland, and we look forward to working with the Scottish Government on the issues that I have outlined, and more, in advance of stage 2.

16:06

**Stephen Kerr (Central Scotland) (Con):** I have already put on the record that I am grateful to the Delegated Powers and Law Reform Committee for its stage 1 report.

On the surface of things, this seems like a technical bill. Although I have had to deal with lawyers, professionally, throughout my career before I got into politics, I am no lawyer. That said, technical though it may be, it is in a subject area of the greatest importance to the people of Scotland. It relates in part to an experience that has already been mentioned and that we will all have, sooner or later. We should not resist—this is my basic contribution to the debate—the common sense of the people of Scotland when it comes to the law.

In this area of the law, many people carry with them a perceived sense of what they feel is right, but it is sometimes not right. We should listen as carefully to the common sense of our constituents on matters such as these as we do to the legal counsel of esteemed and learned lawyers. I would like to think that the passage of this bill presents us with an opportunity to encourage everyone in Scotland to make a will, because there are complexities and unexpected legal hoops to go through when someone dies without having set out their last will and testament.

When it comes to making the law, Scots law is based in good, old-fashioned popular common sense, but, when there is not a will, it is far less straightforward and way more unpredictable than most people expect. People assume that, when they die or when their spouse or partner dies, their other half will inherit their estate. People assume that, when assets in a trust are divided in favour of the trustees, the trust can easily be wound up. People assume that, when their spouse is incapacitated, they will be able to act on their behalf in financial and other matters. People assume that the law on such matters will be straightforward, accessible and easily understood, but common sense is not always reflected in the law.

Of course, the law should be kept current and relevant. That is why I am glad that the Conservatives are supporting the bill at stage 1. As it happens, the law in the areas of the bill seems to have become rather untidy and far from accessible. However, I do not shy away from saying that we should consider the law in the context of what the people consider to be within the scope of their expectations; in other words,

what people consider to be sensible and reasonable. We should have law that is clear and understandable, as in the instance of this bill.

That is what I and other members mean when we use the word “accessible”. That reflects the fairness that people expect. It should not require payments of thousands of pounds to expensive lawyers to unravel and explain. In short, it should be user friendly.

**Martin Whitfield:** I whole-heartedly agree with much of what Stephen Kerr is saying, but I have one question. The bill that is before us comes from the work of the Scottish Law Commission and falls under the special procedure because there are non-controversial elements to it. Does he feel that his request perhaps gets close to the boundary of potential controversiality? If so, that may require a different approach by the Parliament.

**Stephen Kerr:** I do not think that there is anything terribly controversial in what I am saying. I am addressing the expectations that people have about how the law operates in situations in which they go through the loss of a loved one. Their expectations are often founded on the basis of what they think is reasonable and right, but the law does not necessarily provide them with accessibility when it comes to those matters.

The provisions in the bill seem to attempt to consolidate and simplify elements of trust law. The provisions in section 72 are a step in the right direction, but I retain some concerns. When someone in one's close family dies, it is a time for grief. As the late Queen famously said,

“Grief is the price we pay for love.”

For all of us, as human beings, the process of grieving is important and it needs to be handled with compassion and understanding. Expecting those who are grieving to grapple with complex legal issues is unreasonable and we should seek to reduce that burden of complexity in the bill.

**Stuart McMillan:** I reassure Mr Kerr that that particular point came up during the committee's deliberations, and we made a recommendation in our stage 1 report that the cohabitation claim period be extended beyond six months in particular circumstances because of the points that Mr Kerr is raising.

**Stephen Kerr:** I welcome what the convener has reported.

Changing the law to ensure that an estate is inherited by the spouse when there is no will and there are no children is a welcome reform. That being said, there is still room for ambiguity if the relationship is broken or has been broken for some time. For example, a former partner should not have priority over children. As I alluded to in my interventions on the minister, we are perhaps

wasting an opportunity to do the full and serious reform that I think we acknowledge needs to be done.

The number 1 thing that I will say, which I hope makes a contribution to the broader public's awareness of the bill, is that people should make wills. Those who do not have a will need to make a will so that they have a clearer and unambiguous route to resolving these matters.

I may make myself unpopular with some of my colleagues in the chamber when I say that, in my experience, the involvement of lawyers often brings a burden of complexity and cost that, very often, does not need to exist at all. We should trust the people, through good and simple law, to use their common sense. The law as it is passed in the Parliament should back the people up in doing the right things and in meeting their expectation of right outcomes. I hope that the scrutiny of the bill at stage 2 is rigorous in order to make the bill fit for the expectations of the common sense of the Scottish people.

16:14

**Keith Brown (Clackmannanshire and Dunblane) (SNP):** I reassure Stephen Kerr that I think that it is very unlikely that he will make himself any less popular than he currently is. *[Laughter.]*

I agree with the central point that Mr Kerr made, or at least one of his points, which was that, when we undertake this kind of reform, we should have an idea of what is important to local people. The bill touches on some of the most intimate affairs of the general population and it should not be shrouded behind legalese or issues of legal access; it should be as accessible as possible.

Having said that, I support the bill. It sits comfortably in the western European tradition of economic affairs taking place in an organised setting, and trusts and clearly defined rules on inheritance and succession have been a part of Scottish life for centuries. Today, many people across Scotland are either connected to a trust or are themselves trustees, and matters of inheritance and succession are dealt with across Scotland on a daily basis. That shows that, although this is a largely technical piece of legislation, it is an important one for many Scots.

To go back to the point that Stephen Kerr made about ensuring that the process is as accessible as possible, an example from criminal law of something that is not accessible is the idea of the "not proven" verdict. Sheriffs and judges are not allowed to explain the implications of a "not proven" verdict. That is the reason why I changed my mind on its abolition. If we cannot explain a principle of law to the public, it is not accessible. It

is important that we make the area that the bill deals with as accessible as possible.

As has been said before, the main piece of existing legislation on trusts dates back to 1921, making the law effectively more than 100 years old. Of course, the language in the 1921 act is challenging and outdated, but the numerous amendments to the legislation since then make it immensely challenging for trust creators, trustees and other beneficiaries to understand their rights and responsibilities in the system. To put it simply, our society has changed, but our trust laws have struggled to change with it.

Let us not forget that trusts are not only about financial matters but are used extensively by charitable organisations and pension funds. They can be used to protect and administer assets on behalf of vulnerable people and to streamline business operations by setting funds aside to deal with potential future liabilities. In an ever-changing world, therefore, trust law must be robust, adaptable and, above all, comprehensible, as well as accessible.

Accordingly, one of the main purposes of the bill is to modernise, centralise and clarify the rules on trusts in Scotland by creating a single accessible statute that will ensure that individuals and professionals can navigate the law on trusts with confidence. In short, the bill offers the Parliament an opportunity to make the lives of everyday Scots just that bit easier.

However, the bill is not only about updating the law on trusts. It is also about modernising and clarifying the rules on succession and inheritance. Just for the record, I am totally opposed to the proposed changes to inheritance tax that the UK Government is currently talking about.

Inheritance is primarily a matter for families and relationships, and, just as the role of trusts has changed since 1921, so, too, have many of the societal norms relating to families and relationships. The bill, therefore, aims to update the law on succession in line with those societal changes, and the proposed simplification to succession rules is a testament to that. We recognise the changing role of spouses and civil partners in our society, and it is important, therefore, that the law should acknowledge them as key members of the deceased's family in the new definitive statute that the bill proposes. Further to that, the bill also proposes a more equitable approach to biological children, adopted children and stepchildren in the event of the death of a parent, which is also a much-needed change.

The bill is the product of two large-scale law reform projects that were undertaken by the Scottish Law Commission in a process that has spanned more than a decade and involved

extensive consultations, discussions and reports. Its aim is clear: it is to ensure that our Scottish law on trusts and succession is coherent and adaptable to the modern world.

In conclusion, I say that the bill is a significant piece of legislation that updates our legal framework for the needs of our modern society and makes it readily accessible to the public. It simplifies trust laws, ensures clarity for stakeholders and acknowledges the changing dynamics of our families. Therefore, I urge all my fellow parliamentarians to support the bill, recognising that its passage will benefit not just us today, but generations still to come.

16:18

**Martin Whitfield (South Scotland) (Lab):** As a point of clarification, I declare that I am a trustee of a charity—one that is not based in Scotland—although I receive no remuneration for that.

It is a great pleasure to follow Keith Brown, who, of course, sailed this bill into the Parliament in 2022, and I endorse much of what he has said.

I would like to take the relatively short time that I have to discuss the interface between charities and the bill, particularly with regard to trusts, rather than the succession element.

Trusts are a vehicle that charities frequently use. There is a significant number of charitable trustees across Scotland, many of them volunteers, as was pointed out by the convener of the Delegated Powers and Law Reform Committee—on that point, I express my admiration for the convener and the committee members for the work that they have done, and, in particular, the preparation of the report.

There are some fundamental pieces of legislation on charities. The Charities (Regulation and Administration) (Scotland) Act 2023, which is the most recent, came about when the committee was overseeing the Trusts and Succession (Scotland) Bill. I have questions about the interplay between charities and the bill and the consideration that is being given to that, which I hope the minister can answer. I have questions because, at this time, the role and responsibilities of charities, particularly with the economic crisis that so many people face—I am thinking about the roles of our food banks and groups that are built into our communities that help and support people—are ever increasing. We should look forward to that and celebrate it, but most of all we should support it. That hints at my concern relating to the present legislation. I am concerned not about what the proposed legislation would say, but more about the explanation.

The metaphor has been given that the legislation on charities and the Trusts and Succession (Scotland) Bill are railway tracks that run parallel. However, I am not convinced. Indeed, from some of the evidence that the committee heard, there are others outside the Parliament who are not convinced that that is a perfect parallel. Different language is used in each of them. We have heard about the origins of the trust legislation over 100 years ago. The passage of time means that descriptions are often different between them. There is the potential of risk in those minutiae, particularly for our charitable trustees.

I very much welcome the minister's response to the committee's stage 1 report, particularly regarding paragraphs 102 and 103. I see that the Government is going to expand on the explanatory note to meet the committee's request for a better explanation of how the various powers that sit within the Office of the Scottish Charity Regulator, the two principal charity acts in Scotland and the bill will interact. That is an incredibly useful proposal to make. We may be able to tease out from that any potential challenges that could come down the line.

I am slightly more disappointed by the Government's response to paragraph 103, which states:

"The Committee requests an update from the Scottish Government on how the provisions of the Charities (Regulation and Administration) (Scotland) Act 2023 interact with those of the Bill."

There is a very strong description, which I understand and value, of OSCR and its powers to appoint trustees in emergency situations, but there is the potential for a challenge there. I fully support the principles of the bill, but I seek an undertaking from the minister in winding up that that will be looked at and that we will be able to see evidence of the work that is done. I think that that would reassure a significant number of charities.

I recognise that time is tight. I welcome the work that has been done, and I thank the Deputy Presiding Officer for his patience.

16:23

**Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** First, I thank the committee for the considered and detailed work that it has carried out at stage 1, which has sought to update us on two important areas of Scottish life: the management and administration of trusts, and the law as it relates to succession.

I want to focus on part 2 of the bill, which relates to succession, and to share with the Parliament some views on the benefits of the proposals relating to the rights of spouses and civil partners



and what was and still is an area in which a lack of clarity remains with respect to the appointment of executors of a deceased person's estate.

On the proposals concerning how to deal with intestate succession, or the problem of what happens when a person dies without leaving a will, currently the range of beneficiaries is spouses or civil partners, children and remoter descendants, such as grandchildren, and even the parents of the deceased. As I understand it, section 72 of the bill proposes that the spouse or civil partner will become top of the statutory list of those entitled to inherit the free estate. That proposal seems to have been met with agreement from all those who were consulted, and it appears to be uncontested. If that proposal goes forward in the final version of the bill, I am sure that that will be broadly welcomed.

An issue arose in relation to the complexities that might arise in dealing with separated partners. The Government suggests that there remains the ability of a partner to change their will, and it does not see the need to alter the legislation in that respect, despite the discussion that occurred in the committee.

A word of caution in the succession debate is on the fact that cohabitants are not part of the suite of possible inheritors and must apply separately to the court to be considered as beneficiaries. That can be done, but it requires court action by an individual. Perhaps all of that strengthens Stephen Kerr's advice that people should make a will.

An important issue that the committee discussed and on which further work is probably required is that unlawful killers can become executors of a deceased person's estate. I know only too well from constituency casework of the anguish that is brought to a family when the person who murdered their loved one becomes the executor of the estate. A murderer cannot benefit directly from such an act, but being an executor is a separate matter, and their involvement can at the very least cause prolonged delay and at worst involve a refusal to dispose of the estate.

An application can be made to the court to remove executors, but we all know that that can be extremely costly and usually does not proceed. I am therefore pleased that the Government is committed to bringing forward the necessary reforms to prevent a person who is convicted of murder from being an executor of their victim's estate.

**Stuart McMillan:** Mr Coffey will recognise the challenge that exists under the present law and in the future. If somebody was a trustee before they were convicted, they would still be a trustee. We must balance what we all want to happen to

protect trusts and their beneficiaries with the presumption of innocence until proven guilty.

**Willie Coffey:** The committee's convener has explained how tricky and difficult the matter still remains, but I am pleased that the Government is working on it. I hope that we will see that coming through at stages 2 and 3.

I hope that the bill will prevent any circumstances from arising in which a murderer can indirectly benefit from the future sale of his victim's property. Dealing with that is crucial. Whether that can be achieved within the bill's timescales is not clear, and perhaps the minister can say a little more about that in summing up.

In winding up in this short debate, I will finish with a positive comment on the careful consideration that has been given to the issues that the committee has highlighted. The issues are not as straightforward as they might seem to some—perhaps the 100 years or so that have passed with no changes to some aspects attest to that. However, I hope that it will not be another 100 years before we see some of the positive changes coming into effect and a resolution to the awful circumstances that I just outlined. I wish the committee every success as it considers those important issues at stages 2 and 3.

16:28

**Maggie Chapman (North East Scotland) (Green):** I thank the Scottish Law Commission for its detailed work over more than a decade on the bill's different elements. I am also grateful to the Delegated Powers and Law Reform Committee for its consideration of the proposals over the past few months. The evidence that it gathered in the stage 1 report has been useful to me as I have tried to get my head around at least some of what is in the bill.

Scottish Greens welcome the bill. As we have heard, it is a technical bill that seeks to deal with the complexities that more than 100 years of acts, amendments and the like have created. It is intended to ensure that our laws on trusts and succession are clear, coherent and able to respond appropriately to contemporary and—hopefully—future conditions and requirements. The bill should make it easier for solicitors and—perhaps more important—for trustees, trustees and beneficiaries to understand their legal rights and duties. Among other things, the bill clarifies the rights of spouses or civil partners of people who die without having written a will.

Over the coming stages of the bill, I will watch several things with interest, including areas that witnesses said need clarification or amendment, uncertainties about how the bill will interact with charity law and concerns about pension scheme

trusts, among others. I welcome the committee's recommendation that the Scottish and UK Governments should pursue the timely implementation of a section 104 order to ensure that commencement of the bill is not delayed.

I will say a couple of things about issues that the bill does not cover. Although those issues are probably out of scope at the moment, I hope that the committee will have them in mind as the bill progresses through the next stages, to see whether there are things that can be considered, or at least to set the foundations for future work.

I note the minister's comments in her opening statement about the further work that should be possible to ensure that trusts support positive environmental and social objectives to enhance our environment and community wellbeing. I am grateful for those comments and look forward to developments in those areas.

Specifically on land-holding trusts, Scottish Greens believe that offshore trusts, blind trusts and private trusts that exist for tax avoidance or ownership secrecy should be prohibited from holding land. Further, primary beneficiaries of land-holding trusts should demonstrate the productive use or development of land for good, while being locally accountable and accessible.

We must also ensure that our succession laws support our intentions and principles around collective benefit and fair inheritance of landholdings practices and do not contribute further to Scotland's land problem. Many of us in the chamber are concerned about the historical inequalities that are embedded in the structures and concentrated patterns of land ownership. We must not forget the powers within succession laws as we look to further land reform for community benefit.

I realise that those points are perhaps beyond the technical parameters of the Trusts and Succession (Scotland) Bill that we discuss today. However, I hope that the DPLR Committee will have those points in mind in the coming months.

I thank the Law Society and all others for their contributions to Parliament's scrutiny and debate of the bill to date, and I wish the DPLR Committee well as it continues its work on this important legislation.

**The Presiding Officer (Alison Johnstone):** I call Emma Harper, who is the final speaker in the open debate.

16:31

**Emma Harper (South Scotland) (SNP):** I welcome the stage 1 debate. I wish Oliver Mundell a swift recovery and I hope that he feels better

soon. I also thank the DPLR Committee, the clerks and all others for their input so far.

Scots trust law is widely considered to be out of date, and the main legislation is now just over a century old—it dates back to 1921. Trust law is widely understood, including by the legal profession, to be complex, difficult to understand, cumbersome and opaque. Therefore, I welcome the fact that the bill will simplify trust legislation, making the process easier, simpler and more accessible—which members have already talked about—for all who are involved.

The bill will bring the current legislation into the 21st century. In a modern society, trusts are used as solutions in an incredibly wide variety of situations. They are used extensively by charities and pension funds, as others have mentioned, in commercial transactions to set funds aside to deal with future liabilities, and in individual estate planning.

Trusts are also used to protect and administer assets on behalf of vulnerable people such as children and adults with incapacity and disabilities. As I know through my casework, trusts are also important to look after community assets and funds, as well as for matters that might not automatically spring to mind. For instance, one of my constituents told me about the importance of the bill for her—she and her husband use a trust to secure financial assets for their child, who is in the custodial estate. That relates to Keith Brown's point about vulnerable people.

Trusts are, indeed, hugely important, but the state of trust law in Scotland at present is inaccessible and off-putting. People who have had experience of those difficulties are reluctant to create new trusts, even if a trust represents the best option to provide the flexibility and protection that they seek. As reported by the Law Society of Scotland, that inertia around trusts in Scotland is putting Scotland at a disadvantage, in contrast to other European nations and other parts of the UK.

The Scottish Law Commission, the Law Society of Scotland and practitioners have commented on all those issues throughout the various consultations that led to the bill. Indeed, I echo the comments of Lady Paton of the inner house of the Court Session, who said:

"There will be considerable rejoicing and relief amongst the legal community who deal with clients and find the 100-year-old law a major handicap."

Therefore, we are moving in the right direction with the bill.

As a healthcare professional and a member of the Health, Social Care and Sport Committee, I am particularly interested in the provisions of the bill in relation to incapacity. Under section 3 of the 1921 act, all trusts are held to include a provision

that decisions must be made by quorum, which is defined as

“a majority of the trustees accepting and surviving”.

However, that does not include incapax trustees. That can lead to issues where trust decisions cannot be made if a majority cannot be achieved. The bill addresses that, and a definition of “incapable” is included in the bill at section 75. It closely reflects the Adults with Incapacity (Scotland) Act 2000, which refers to whether a person is capable of making, communicating, understanding and

“retaining the memory of decisions”.

In addition, section 12 of the bill states that trustees’ decisions are to be made

“by a majority of those for the time being able to make”

them, and that

“a trustee is not to be regarded as able to make a decision who ... is incapable”.

That therefore means that capacity can be determined on a decision-specific basis, allowing incapax trustees to continue as trustees and to participate where appropriate without hindering the administration of the trust.

I appreciate the minister’s comments regarding incapacity and the commitment to look further at the issue of capacity or incapacity to prevent abuse.

The bill will improve Scots law in relation to trusts, and I urge members to support it at decision time.

16:36

**Michael Marra:** I thank all members who have contributed to the debate. It has been peppered throughout with clarion calls for clarity in our law in this area. There has been unanimity around the chamber on that.

This area of law—the legal devices by which, for example, estates are passed on—is important to many people across Scotland. Many people place property or assets in trusts without any real clarity as to whether that is necessary. Doing so incurs considerable cost, and the law is far from clear at the moment about whether that is a step that they should take. Therefore, emerging clarity in this area would be welcomed by many people for the purposes of making good law and the better ends to which Maggie Chapman alluded in her speech.

Stuart McMillan started his speech by telling us just how many people and institutions the bill will touch on. In his intervention on Stuart McMillan, Stephen Kerr made a very reasonable point when he asked about the full codification of trust law. The point was made partly on behalf of the Law

Society of Scotland, which has called for codification. I am not entirely sure that I agree with the principal objection that it would take a lot of time to act on that call. For example, we have a debate next week on protecting this Parliament, which will take up a considerable amount of chamber time but is nothing more than political point scoring and posturing ahead of a by-election. The delay in this work is rather indefensible—it cannot be defended by referring to chamber time.

I am aware that the bill involved a considerable amount of work in the background from a lot of different institutions. People who use trust law have waited a century for it to be reformed, so it would be worth considering whether a slightly longer delay might result in a better outcome. We have had 16 years of this Government.

Oliver Mundell stood by my colleague Martin Whitfield’s concerns about the clarification that we want to see between trusts and charities. It is difficult to see how the issue might be fully resolved without the full codification that the Law Society of Scotland is looking for. I would appreciate it if the minister could work on Martin Whitfield’s suggestion of prioritising definitions as a useful step in resolving the confusion.

There is also a broader point to be made about the legislation, the work of Government that people are elected to do and our holding them to account as a Parliament. As I stated in my opening remarks, the Scottish Law Commission deserves recognition for the wide body of work that it has produced, but it deserves more than that—it deserves the work to be acted on.

The commission could be forgiven for being more than a little frustrated at the number of reports and draft bills that it has published that sit gathering dust on a shelf in St Andrew’s house. Part 1 of the bill that we are debating is based on a Scottish Law Commission report from 2014 and a revised draft bill from 2018. The reforms contained in part 2 are the fruit of law reform work and public consultation spanning more than 30 years, while the bill’s main recommendations were contained in a 2009 report on succession from the Scottish Law Commission—indeed, the Scottish Government consulted on those recommendations back in 2015.

**Stuart McMillan:** Does Michael Marra welcome the comments from the Minister for Parliamentary Business at the Delegated Powers and Law Reform Committee on Tuesday, and from the First Minister at the Conveners Group yesterday, in which they both gave the commitment that more SLC bills would come to the Parliament?

**Michael Marra:** I certainly welcome that commitment. It is belated and has been a long time coming. I will come on to why I think that this

area is particularly important. To be frank, it is good to see the Government spend more of its time on the job of governing—the more of that we can have, the better. We believe that it is a good thing that the Government is keeping the commitment to implementing some of the recommendations. We only wish that it had not taken quite so long.

Back in 2021, the Delegated Powers and Law Reform Committee raised the slow rate of progress with the Minister for Parliamentary Business. At that time, there were around 18 Scottish Law Commission reports, going back as far as 2006, on which no legislation had been passed at all.

There has, of course, been some progress. The Moveable Transactions (Scotland) Bill, which passed into law earlier this year, is a good example. Although I am pleased to see in the programme for government that one of the 14 bills to be introduced in 2023-24 is a Scottish Law Commission bill, a rate of one bill per year is hardly making significant roads into the backlog.

The reason for that pace is clear. For too long, the Government has been interested more in the work of grievance than in the work of governance. I doubt that this bill, when it passes into legislation, will earn the First Minister or his Government a front-page splash. A functioning legal system that governs such areas as the bill covers is critical to one of what we are told are the key drivers of this Government. A proper growing economy requires a stable, working and interpretable legal system through which people can govern their own affairs. That is the hard work of governing.

We have a chance with the bill to make some people's lives better—for example, the parents using a trust to provide for an adult child who cannot provide for themselves, the bereaved spouse who is spared the burden of financial uncertainty, and the trustees of a charity who find it that bit easier to administer funds and help those in need. Those people are not asking their Government for headline-grabbing high-stakes legislation with 11th hour votes and controversies; they are asking for competence, compassion and dignity. They are asking for a serious and hard-working Government.

16:42

**Jeremy Balfour (Lothian) (Con):** I thank all the members who have taken part in the debate. I also thank the Law Commission, the clerks to the committee and those who gave evidence to the committee for all that they put before us.

As Oliver Mundell said in his speech, the Scottish Conservatives will support the bill at stage 1. However, a lot of work needs to be done at

stages 2 and 3. The Scottish Government still has a lot of heavy lifting to do.

I absolutely agree that trust law needs to be changed. There cannot be any other area of law in which my grandfather, my father and I were taught the same thing at university. That it is three or four generations old shows that it is time for reform.

I am disappointed by the Government's response on succession law. There is general agreement, both in the legal profession and in academia, that it is just tinkering with the system. This was an opportunity to make major reforms in succession law, but, for whatever reason, the Scottish Government has decided not to take that opportunity. The minister, in her response to the committee report, has said that there will be no further changes to succession law during this parliamentary session. I fully accept that to change succession law would be controversial and that there is no major agreement out there. However, the role of Government is, surely, to lead, and this was an opportunity for us to reform succession law to bring it into the 21st century. Instead, we are tinkering at its edges and simply introducing changes in two areas instead of having a major reform. That is a disappointment.

**Alasdair Allan (Na h-Eileanan an Iar) (SNP):** I do not know whether Jeremy Balfour will have a great answer to this. I have listened to him telling the chamber for some time that we are not doing enough and that we are just tinkering. What does the member want in the bill and why has he not lodged amendments on that?

**Jeremy Balfour:** Well, this is stage 1; stage 2 is still to come. I encourage Alasdair Allan to read the evidence that was given to the committee—in particular, that from the professors of law from the University of Dundee. The issue that I have is that succession law needs to be brought into the 21st century, but that is simply not happening. If the member looks at what has been said by both the Scottish Law Commission and the academics, it is absolutely clear.

**Bob Doris (Glasgow Maryhill and Springburn) (SNP) rose—**

**Martin Whitfield:** In no way am I defending the Scottish Government's choices, but the situation has come about because particular provisions exist in the standing orders for Scottish Law Commission bills, in that if the bill matches certain criteria—interestingly, one of which is that it will not generate substantial controversy—it proceeds in a different and, one would hope, more streamlined way. That is not to take away from the valid points that might need to be considered, but the bill is perhaps not the vehicle through which we would expect that to happen.

**Jeremy Balfour:** That is an interesting question for debate. However, it is clear that succession law needs to be reformed, that the Government has had 14 years to do so, that it had an opportunity either in this bill or in other legislation to introduce that reform, and that it has told us that it will not touch the matter for another two and half years at least.

I move on to trust law. We need to seek clarification on, and to have amendments in, a number of areas, as the bill goes through Parliament. First, there is a danger—a number of members have pointed to this—that we will put people off becoming trustees. Evidence is already out there that it is becoming harder to find people to be trustees and to do that work for certain trusts—especially for small trusts, which play a really important role in communities. We have to be careful that we do not put people off; the perception is—it is, perhaps, just a perception—that one could face financial problems if one were to become a trustee. It would be helpful for the minister to lodge amendments to clarify that point at stage 2.

Secondly, there is an area with which all members of the committee have struggled. We need to think more about the definition of “incapacity”—the Government is already thinking about it and there is no clear way forward. Emma Harper and Oliver Mundell raised that issue in the debate. We have to be really careful and confident that whatever definition we ultimately come to, as a Parliament, will meet not just the lawyers’ needs but the needs of trustees, particularly trustees of small trusts, who do not want to keep going to lawyers.

**Stuart McMillan:** Mr Balfour will agree that the committee considered future proofing of the definition and thinks that some type of delegated-power mechanism would help with that.

**Jeremy Balfour:** I agree with Mr McMillan that that might be a way forward, but—again—it is something that we will have to look at.

I agree with Mr Kerr to some degree that people should be making a will. However, I remind Mr Kerr of a great advert that the Law Society brought out in the 1990s, which said that

“It’s never too early to call your solicitor.”

Obviously, that is seen to be true today.

We have to ensure that the language is not good only for lawyers, but is also good for the people who work on trusts day in and day out, so that we do not get caught out. If we can avoid lawyers being involved in things, that can only be good news.

I agree with Martin Whitfield on the concern that he raised about the interplay between trusts and

charities. I asked a number of questions about that of the expert witnesses. Again, we need to be clear in our thinking about how we are going to proceed on that.

Finally, we need to look again at codification, which was raised by Mr Kerr and Mr Whitfield. We have waited 100 years for the bill, so we could probably wait just a wee bit longer. If the minister is simply concerned about time, I think that we could pause to do that. If there is a more substantial reason why she thinks that that is not possible, I would be interested to hear it.

The bill is long overdue. It will be welcomed by civic society and the legal profession, so I look forward to voting for it at stage 1 tonight.

**Stephen Kerr:** On a point of order, Presiding Officer.

Martin Whitfield made a declaration of interests during his speech. I should also have made a declaration of interests, as I am a trustee of a human rights charity that is registered in England. I want to put that on the record, in case there are any doubts.

**The Presiding Officer:** Thank you, Mr Kerr. Although that was not a point of order, it is now on the record.

I call the minister to wind up the debate. You have until 5 pm, minister.

16:51

**Siobhian Brown:** I thank members for their contribution to this afternoon’s helpful debate. I would also like to repeat my thanks to the Scottish Law Commission for the decade of work that has gone into this reform project and the Delegated Powers and Law Reform Committee for the work that it has done on gathering and listening to the evidence on the bill and for its recommendations.

In general, the bill covers the powers and duties of trustees, the administration of trusts and the powers of the courts in trust matters, and it has one substantive provision on succession. The majority of the current statutory framework relating to trust law is found in the Trusts (Scotland) Act 1921. In modern trust practice, the powers and duties of trustees are markedly different from those set out in the 1921 act. The part that is played by the trust in commercial structures, for instance, means that trust law is of economic importance: trusts are widely used for investment and financial planning. Other examples of the use of trusts include supporting those who are unable to manage their own affairs because they are, for example, under age or they have a disability, to ring fence funds to ensure consumer protection, such as travel companies holding funds provided

for holidays, or to hold business or other assets rather than fragmenting ownership.

Current legislation has not kept up with how trusts are now used and the bill represents a significant step in bringing the law up to date, and making it easier for trustees, trustees or beneficiaries to understand what their legal rights and duties are. The SLC's reform project is the most significant review of the Scots law of trust in the past 100 years, and the bill implements the overwhelming number of recommendations made by it.

Overall, the SLC's recommendations achieve the aim of modernising trust law, but committee members and members who are here today have identified some points of detail where they consider that improvements can be made to the bill. Although there are these points of debate, I am pleased that there is broad support across the chamber for the general principles of the bill.

**Stephen Kerr:** Will the minister take an intervention?

**Siobhian Brown:** I am sorry, Mr Kerr, but I have a lot to get on with.

I have listened to each of the points raised by the committee carefully and I will of course take them away and reflect on them before stage 2. I am willing to listen to and, where I can, work with members across the chamber on the bill.

Several members brought up codification. Complete codification of any area of law is never straightforward. The SLC considered the codification of the law but ultimately rejected it. As Lord Drummond Young told the committee, its view was that some areas of the law were better left out of statute, such as that somewhat abstract dual patrimony theory that underpins trusts and the law around express trusts or implied trusts.

The bill reforms all the parts of Scots trust law that have traditionally been dealt with by statute. It consolidates and modernises nearly all of statutory trust law. I am content that the SLC, after extensive consideration of the issue, has identified the right approach to the bill, which is one of focusing on reforming the parts of the law that create problems in practice. I understand the committee's view that a comprehensive codification would make it easier for a layperson to access and understand the legislation, but as the SLC suggested in evidence, in other jurisdictions where codification has taken place, the statutory law is seldom absolutely comprehensive.

I move on to the issue of section 104 of the Scotland Act 1998, which several members raised. It is critically important that the bill does not leave pension trusts behind. That is why our preferred route to achieving maximum certainty is to work

with the UK Government to bring forward an order under section 104 of the Scotland Act 1998 that would apply the bill to pension trusts. We have had positive engagement with officials at the Scotland Office and other UK Government departments, and we are making progress on taking forward a section 104 order. We are at a really early stage of the process, but I will update the committee as and when the situation develops.

Oliver Mundell touched on litigation expenses. Currently, it is usually the case that trustees are personally liable to pay litigation expenses to successful opponents, but they have the right of relief against a trust estate. I have listened to the concerns that the Law Society, in particular, has raised about the potential effect of the relevant provisions. My officials met the Law Society and STEP over the summer to hear directly from them. I will look into the matter again and will consider how we might best deal with the concerns that have been raised by some of the professions.

Willie Coffey raised the emotive issue of murderers as executors. I am committed to introducing reform that would prevent a person who has been convicted of murder from being an executor for their victim's estate. My officials and I will continue to explore what can be done in the context of the bill to ensure that that happens.

I turn to the definition of "incapacity", which several members raised. The bill uses a familiar definition of "incapable" that is very similar—although not identical—to the one that is found in the Adults with Incapacity (Scotland) Act 2000. The committee has rightly pointed out that significant and far-reaching changes to mental health legislation have been recommended, and I agree that it would clearly be undesirable for the meaning of "incapable" in trust law to differ from the usual widely understood definition. I can see merit in ensuring that the bill does not diverge from the general law on capacity and that it will keep pace with any changes in the area. I am considering the best approach, with a view to lodging an amendment on the issue at stage 2.

Stephen Kerr made a very important point, which I fully endorse, when he stressed the importance of making a will. That is the only way for us to ensure that our money, our property, our possessions and our investments go to the people we really care about.

**Stephen Kerr:** Would the minister be minded to consider whether we could have a fundamental change in the way in which properties are registered, whereby it would be necessary to have a notarised will so that the disposal of a property in the event of the death of the owner would be wound up in the whole transaction?

**Siobhian Brown:** That could be something that we could consider, but it will not be considered in relation to the bill before us.

I believe that today's debate reinforces the impression that there is broad support for the bill and its policy aims. This is Parliament's chance to consider an area of law that has not been looked at in any substantial way for more than 100 years. As a whole, the bill seeks to bring the law into line with modern practice, and it takes forward all the substantive recommendations for reform proposed by the SLC.

I thank all the members who have contributed to today's debate, and I welcome their broad support for the general principles of the bill. However, as the debate has demonstrated, there are matters to consider and some differences of view on some points of detail. I have committed to writing to the committee ahead of stage 2 to provide the further information that it has requested. I look forward to working with the committee and members from across the chamber to consider those issues in the coming weeks.

## Decision Time

17:00

**The Presiding Officer (Alison Johnstone):** There is one question to be put as a result of today's business. The question is, that motion S6M-10595, in the name of Siobhian Brown, on the Trusts and Succession (Scotland) Bill at stage 1, be agreed to.

*Motion agreed to,*

That the Parliament agrees to the general principles of the Trusts and Succession (Scotland) Bill.

*Meeting closed at 17:00.*





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