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Wednesday 24 April 2024

CONTENTS

	Col.
PORTFOLIO QUESTION TIME	1
CONSTITUTION, EXTERNAL AFFAIRS AND CULTURE	1
Support for Culture (North East Scotland).....	1
Census Data	3
Festivals (Dumfries and Galloway).....	4
Public Service Broadcasting	5
International Culture Strategy (Touring Artists)	6
Cabinet Secretary for Constitution, External Affairs and Culture (Overseas Trips)	8
Historic Environment Scotland (Reopening of Sites)	10
JUSTICE AND HOME AFFAIRS	12
Scottish Prison Service (Workforce).....	12
Hate Crime and Public Order (Scotland) Act 2021 (Promotion).....	13
Non-crime Hate Incidents (Recording)	14
Scottish Legal Complaints Commission (Complaints Handling)	16
Damages for Personal Injury	18
Police (Mental Health Support).....	19
BUSINESS MOTION	22
<i>Motion moved—[George Adam]—and agreed to.</i>	
CHILDREN (CARE AND JUSTICE) (SCOTLAND) BILL: STAGE 3	24
BUSINESS MOTIONS	154
<i>Motions moved—[George Adam]—and agreed to.</i>	
DECISION TIME	157

Scottish Parliament

Wednesday 24 April 2024

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

Portfolio Question Time

Constitution, External Affairs and Culture

The Deputy Presiding Officer (Liam McArthur): Good afternoon, colleagues. The first item of business is portfolio questions, and the first portfolio is constitution, external affairs and culture. I remind members who wish to ask a supplementary question to press their request-to-speak button during the relevant question.

I call Rachael Hamilton to ask question 1.

Ms Hamilton does not appear to be in the chamber, which is more than regrettable. We will move on to question 2.

Support for Culture (North East Scotland)

2. Maurice Golden (North East Scotland) (Con): To ask the Scottish Government how it is supporting culture in the North East Scotland region. (S6O-03325)

The Cabinet Secretary for Constitution, External Affairs and Culture (Angus Robertson): Since the previous external affairs questions, the United Nations has concluded its review of the report of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, which has delivered aid in Gaza for the Scottish Government. Germany is now resuming aid through UNRWA, joining the European Union and many others. We wish to put on record that we call on the United Kingdom Government to follow the lead of Germany and help the people of Gaza.

In answer to Maurice Golden's question, our culture strategy sets out our ambition for culture to thrive across Scotland. We have supported a range of initiatives in the north-east of Scotland, including the North East Culture Collective. One of the projects in the programme has supported creative practitioners to work with young people who are experiencing homelessness to co-design a safe space to enable them to feel connected to their community.

In addition, through funding to Creative Scotland, we support organisations such as Hospitalfield in Angus, Creative Dundee, Deveron

Projects and Scottish Sculpture Workshop in Aberdeenshire, to name but a few.

Maurice Golden: The Eden Project Dundee is potentially transformational for the city, and it will be funded by a mixture of private and public sources. However, it is not projected to open until the end of the decade due to a series of complicated actions being required. What actions will the Scottish Government take to support and maximise the value of that project?

Angus Robertson: I commend Maurice Golden for his long-standing advocacy and Dundee for the flexibility and innovation that it has shown throughout the transformation of the city. That is affirmed in the designation of Dundee as the first and only United Nations Educational, Scientific and Cultural Organization city of design in the United Kingdom.

The Scottish Government has invested £38 million in the construction of the world-class V&A museum of design as a focal point for the regeneration of the city's waterfront. We continue our support through annual funding, which helps Dundee to develop a sense of place and a culture of innovation. I have no doubt that that innovative approach will continue as Dundee looks to maximise the opportunities that arise as the Eden Project develops in the city.

Karen Adam (Banffshire and Buchan Coast) (SNP): The launch of Scotland's international culture strategy is very welcome, and it is important. I met the French ambassador recently in Aberdeen. Can the cabinet secretary say any more about the steps that the Scottish Government is taking to promote and develop Scotland's international cultural connections and the opportunities that that can create for the sector, including in the north-east of Scotland?

Angus Robertson: First, I give a huge word of thanks to organisations across the north-east of Scotland for contributing to the public consultation for the international culture strategy. Contributions from organisations such as Scottish Sculpture Workshop, Deveron Projects and Peacock Visual Arts were vital to the strategy's development.

The international culture strategy sets out a

"vision ... for the Scottish culture and creative sector to be globally connected with the means and opportunities to achieve its international ambitions and potential".

The Scottish Government's existing international infrastructure will be a key element in delivering on the aims of the strategy, and we will work with our international offices and other networks across Scotland, including those in the north-east, to build on their existing cultural activity in order to understand where opportunities exist and how to enhance them for the culture and creative sector.

Census Data

3. Jamie Halcro Johnston (Highlands and Islands) (Con): To ask the Scottish Government how data from the most recent Scottish census is being used. (S6O-03326)

The Cabinet Secretary for Constitution, External Affairs and Culture (Angus Robertson): The first results from the 2022 census were published by National Records of Scotland on Thursday 14 September 2023. The first outputs included estimates of the total population of Scotland and the population sizes in every local authority area, including a breakdown by five-year age groups and sex. They also showed the change in population since the previous census in 2011.

The availability of up-to-date census population data has already facilitated the development of Scottish Government policies, such as developing more targeted interventions aimed at supporting communities that are experiencing population decline.

Those results were only the first step in publishing a wide range of unique data from the census. From May 2024, National Records of Scotland will publish a series of topic data from the 2022 census.

Jamie Halcro Johnston: The Highlands and Islands already faces many challenges, including the delivery of public services such as healthcare, housing and vital lifeline links. Failure to deliver those services properly risks the sustainability of some of our communities. As the cabinet secretary said, depopulation is a constant threat.

The Scottish Government's "Supporting and enabling sustainable communities: An Action Plan to Address Depopulation" was published in February this year, but that was before some key data from the Scottish census was released. We know that the census was delayed and that it was millions of pounds over budget. What analysis has the Scottish Government undertaken, or is planning to undertake, of the impact of the delayed release of census data on its policy development and delivery and on the ability of other organisations, such as local councils, to deliver on their work?

Angus Robertson: Jamie Halcro Johnston is absolutely right to draw attention to the importance of census data to the delivery of public services throughout Scotland, including the north of Scotland and the northern isles, which I know are very close to his heart.

There was a change in the latest census through the inclusion of what is known as administrative data, which allows for greater granularity, using huge data sets that are held

throughout Scotland's public services. I know that that will be of great interest to Jamie Halcro Johnston and other colleagues.

I have said to National Records of Scotland that, when the next tranche of information is released, there should be a meeting for MSPs from across the chamber so that they can understand how that works and raise any needs, interests, concerns and expectations that they might have, so that everyone can have confidence that the census data is as useful as Jamie Halcro Johnston knows it to be and about what lessons need to be learned about the conduct of future censuses and the use of administrative data.

Beatrice Wishart (Shetland Islands) (LD): Depopulation reversal and growth in the islands of Burra and Trondra correlate with the addition of bridges that connect them to the Shetland mainland. The next phase of transport infrastructure in the islands could be short subsea tunnels, which would help to boost Scotland's aquaculture and space economy. Does the cabinet secretary agree that census data should be used to help to map depopulation and inform policy in areas such as transport connectivity?

Angus Robertson: As Beatrice Wishart knows, there is no quick fix for the challenges that lead to depopulation. However, the action plan to address depopulation sets out how we will work with regional, local and community partners to ensure that we collectively deliver a sustainable solution to those challenges.

Beatrice Wishart is absolutely right to point to the role that the census and census data can play in our understanding of differences in population and other important information that can steer local and national decision making. There is the possibility that the data might be updated not just every 10 years but in between.

I refer to what I said in response to Jamie Halcro Johnston's question. I extend to Beatrice Wishart the opportunity to speak to those who compiled and worked on the most recent census to better understand what we can learn from it and the ways in which it is compiled now and will be going into the future. I am sure that it will be of significant benefit to her constituents in Shetland.

Festivals (Dumfries and Galloway)

4. Colin Smyth (South Scotland) (Lab): To ask the Scottish Government what action it is taking to support festivals in Dumfries and Galloway. (S6O-03327)

The Cabinet Secretary for Constitution, External Affairs and Culture (Angus Robertson): Creative Scotland provides support for a number of festivals in Dumfries and Galloway including the Dumfries and Galloway arts festival

and Wigtown book festival. In 2023-24, Creative Scotland provided £107,000 to Dumfries and Galloway Arts Festival from its open fund. Creative Scotland also supports Wigtown Festival Company, which delivers the Wigtown book festival and the Big DoG children's book festival, with £86,000 per year. It also provides £100,000 per year in support for The Stove Network, which runs a programme of various festivals and events, including the Nithraid river festival.

Between April 2021 and March 2024, Creative Scotland invested more than £3 million in individuals and organisations with a Dumfries and Galloway postcode through its open and targeted funds.

Colin Smyth: In recent years, in particular, in Dumfries and Galloway, we have lost a number of major music festivals, such as the Wickerman festival, the Electric Fields festival and, most recently, the Doonhame festival and the Big Burns Supper, while others, such as the Eden festival, have had to scale back. However, when new events such as Music at the Multiverse come forward, they do not seem to receive support. Support for music festivals does not seem to be there.

At a time when Creative Scotland's funding has been reduced by 10 per cent, what specific action can the Government take to stop a further erosion of music festivals in Dumfries and Galloway, which have incredibly tight margins, given the rural nature of the region?

Angus Robertson: As Colin Smyth knows, I am very committed to supporting festivals right across Scotland. We have such fantastic festivals—they one of the jewels of our creative sector. I have already outlined the significant support that has been extended to festivals in Dumfries and Galloway.

Colin Smyth raises some concerns, which I am sure that Creative Scotland will have heard. He is well aware that Creative Scotland is an arm's-length organisation and that it is beyond governmental decisions whether to support one festival or project or another—that is for Creative Scotland to determine. I will make sure that, when I next meet Creative Scotland, I draw its attention to the specific questions that he has asked about festivals in Dumfries and Galloway.

Public Service Broadcasting

5. Willie Coffey (Kilmarnock and Irvine Valley) (SNP): To ask the Scottish Government what its policy is for public service broadcasting in an independent Scotland. (S6O-03328)

The Minister for Independence (Jamie Hepburn): In continuing to deliver on our commitment to give people the information that

they need to make an informed choice about their future, we set out our policy for broadcasting in the "Culture in an independent Scotland" paper that we published in February.

With independence, we would build on the strengths of the current broadcasting model, including through the creation of a new Scottish public service broadcaster, to better reflect and prioritise the specific needs and interests of Scottish audiences and our creative economy. Ongoing engagement and consultation with the sector and the public would be part of that process.

Willie Coffey: I am sure that the minister will agree that Scotland is not served well on the international stage by the current broadcasting model. With our national broadcaster—unlike what happens with many other national broadcasters, some of which are for countries no bigger than Scotland—we neither see nor hear our voice represented on the world stage from a Scottish perspective. In my view, the Scottish people are losing out significantly. Will the minister share some thinking on how that will change for the better when Scotland becomes independent?

Jamie Hepburn: It is important that we recognise that there is still much good that comes from broadcasting that is based in Scotland. However, I agree that, with an independent public service broadcaster, which we would ensure was editorially independent of Government and adhered to the highest standards of impartiality, we would have a significant opportunity to ensure that we would see the world better reflected through a Scottish lens. Any charter for an independent Scottish broadcaster could help to ensure that. As I have set out, we have made a commitment to engage in consultation with the sector and with the public to ensure that we can reach that ambition for an independent Scottish public service broadcaster.

International Culture Strategy (Touring Artists)

6. Clare Adamson (Motherwell and Wishaw) (SNP): To ask the Scottish Government how Scotland's international culture strategy will support the aspirations of touring artists. (S6O-03329)

The Cabinet Secretary for Constitution, External Affairs and Culture (Angus Robertson): The Scottish Government recognises that the ability to tour and work internationally is vital to many creative professionals, and it is deeply regrettable that the United Kingdom Government's decision to leave the European Union has made such activities significantly more difficult.

A key area of action of our international culture strategy will be to mitigate those impacts. As part of the strategy, we will work to push the UK Government and the EU to support visa-free arrangements for touring artists. In addition, we will work with the sector to explore new ways to support international mobility.

Touring is also a key element of cultural export and exchange activity in the sector. Therefore, we will also undertake a feasibility study on the development of a support service for cultural export and exchange that would help to support international touring and other international activity.

Clare Adamson: Last week, I attended a sobering round-table discussion with the face the music campaign, which is organised by the European Movement. A stark result of Brexit is that touring artists face visa barriers, as the cabinet secretary has mentioned, and in addition, the additional paperwork around carnets and cabotage and a host of bureaucracy means that touring is now prohibitively expensive for many, both in time and resource.

I know through my work with the Parliamentary Partnership Assembly that those discussions have taken place, but they are very much focused on youth movement in Europe. What is the cabinet secretary's advice on the conversations that he has had about Scotland's wider cultural activities and opportunities?

Angus Robertson: It is the view of the Scottish Government that creative professionals should be added to the list of visa-exempt business travellers that are already contained in the EU-UK trade and co-operation agreement. That could be easily done through the review clauses of the TCA.

Scottish Government ministers and officials have regular discussions with their UK Government counterparts to make the case for an agreement to minimise all those barriers and for that issue to be raised with the European Commission. As set out in our international culture strategy, we will continue to push the UK Government to negotiate such an agreement and, incidentally, to rejoin creative Europe.

Of course, the Scottish Government wishes to see an independent Scotland rejoin the European Union, allowing touring artists to benefit once again from freedom of movement. Our recent paper, "Culture in an independent Scotland", sets out our priorities for that to come about.

Alexander Stewart (Mid Scotland and Fife) (Con): Touring artists are being priced out of Edinburgh due to escalating accommodation costs. The chief executive of the Edinburgh Festival Fringe Society described the current level of Scottish Government support for what is the

largest arts festival in the world as a "national embarrassment" and said that the fringe was becoming "almost impossible" to deliver. What is the Scottish Government doing to support that event and those touring artists?

Angus Robertson: First, conversations and discussions between the Scottish Government and important festivals, including the Edinburgh festival fringe, are on-going and constant. The fringe is a jewel in our cultural crown—I say that as cabinet secretary for culture, but also in my capacity as a member of the Scottish Parliament for Edinburgh Central. We need to work through the indubitable challenges across the creative and arts sectors; we will do that in partnership with the Edinburgh festival fringe and others.

Secondly, I observe that one of the particular challenges that we have with touring artists—that was the second part of the member's question—is the difficulty, particularly for younger, less experienced people, of breaking through in the cultural and arts sector. Last week, we had a proposal from the European Commission that would have restored the ability of young people, including artists, to tour without any difficulty right across the European Union. Unfortunately, the first to decline that proposal was the UK Labour Party—incidentally, a party whose front-bench members are not even hearing culture questions today—and the second to decline it was the UK Government. That is extremely disappointing.

Cabinet Secretary for Constitution, External Affairs and Culture (Overseas Trips)

7. Edward Mountain (Highlands and Islands) (Con): To ask the Scottish Government what the total cost has been of overseas trips undertaken by the Cabinet Secretary for Constitution, External Affairs and Culture, on behalf of the Scottish Government, since his appointment in 2021. (S6O-03330)

The Cabinet Secretary for Constitution, External Affairs and Culture (Angus Robertson): Details of all ministerial engagements are proactively published by the Scottish Government, as per section 9.17 of the ministerial code. Final cost details from the recent attendance at tartan week in the United States are still being finalised. I will write to the member with those details as soon as they are available.

Tartan week was a tremendous opportunity to promote Scotland as an excellent place to live, work, study, visit, invest and do business in. I am particularly grateful to the tartan week organisers in the United States and to the Scottish Government office in the United States, Scottish Development International, VisitScotland and all participants for ensuring that tartan week was such a success.

Edward Mountain: I am not sure that that was even an attempted answer to my questions and I am not sure why the cabinet secretary is being so evasive. Such trips are funded by taxpayers, who deserve to hear the answer right here in their Parliament about exactly what the costs have been.

As the cabinet secretary knows, the Scottish Government has come in for a lot of criticism for meddling in issues that are reserved to the UK Government. I would like to know, and I will give him one more opportunity to say, how much has been spent on all his trips since 2021. A figure would be useful.

Angus Robertson: It is disappointing that Edward Mountain just read out the supplementary that he had prepared before arriving in the chamber and listening to the answer that I gave him—

Edward Mountain: You did not answer my question.

Angus Robertson: I did answer the question—*[Interruption.]* As I said to Mr Mountain—if he will give me the opportunity to answer the question yet again—details of all international trips are, as he knows, published regularly by the Scottish Government.

As I have made clear—*[Interruption.]* Mr Mountain can huff and puff as much as he likes, but it is simply a statement of fact that, given that I returned from tartan week only recently, the latest travel information has not been finally compiled. As soon as it has been, it will be published, and I have said that we will forward it to the member. That is an entirely reasonable answer to an entirely reasonable question. I am sure that the member would not wish me to pluck numbers from the sky and answer questions without having the facts, which have not yet been compiled.

Edward Mountain: On a point of order, Presiding Officer. We come to the chamber as members to get answers to questions, which we submit more than a week in advance. How do we expect members to be treated with respect in the chamber if they do not get answers? We are not being treated with respect if we are not being given answers, Presiding Officer. I would be grateful if you could give a ruling on whether a member has a chance to get an answer, and whether the cabinet secretary should answer the question that has been put to him.

The Deputy Presiding Officer: Mr Mountain, you will know that the content of both questions and answers is not the responsibility of the chair.

Historic Environment Scotland (Reopening of Sites)

8. Finlay Carson (Galloway and West Dumfries) (Con): To ask the Scottish Government whether it will provide an update on the reopening of Historic Environment Scotland sites. (S6O-03331)

The Minister for Culture, Europe and International Development (Kaukab Stewart):

As we would all expect, Historic Environment Scotland must continue to prioritise the health and safety of visitors, staff and contractors. It continues to work hard to reopen sites as soon as it is safe to do so. In fact, Historic Environment Scotland has now completed 90 per cent of the priority high-level masonry inspections and, across its estate, there is full or partial access to 90 per cent of its year-round properties.

For further information on any specific site or to learn about the issues from technical experts at first hand, I would be happy to ask Historic Environment Scotland to arrange a visit for the member. I thank him for his continued interest in the issue.

Finlay Carson: Before the pandemic, Scotland's historic environment contributed £4.2 billion to our national economy, and Historic Environment Scotland cares for more than 300 properties that are of national importance. However, to maintain its estate, HES needs to tackle a serious shortage of traditional skills such as stonemasonry and carpentry.

I know from experience, after visiting the reBUILD project in Whithorn, how vital it is to attract and retain fresh young talent to work in Scotland's heritage sector while, crucially, creating jobs at the same time. I am sure that the minister agrees about the importance of the new five-year skills investment plan that was launched earlier this month, which will create a better-skilled workforce across Scotland. How does she envisage that HES will work with organisations such as Whithorn reBUILD to maintain our historic buildings and create jobs in rural areas?

Kaukab Stewart: I recognise the excellent work that the Whithorn Trust is undertaking with its trainees. I am pleased that Historic Environment Scotland is supporting the trust's capacity to deliver accredited skills training.

As the member mentioned, a refreshed skills investment plan for the historic environment was launched recently at the Engine Shed in Stirling, and I was able to attend that launch. That plan was drafted collaboratively with the sector to reflect the changes that the sector has experienced since the plan was first published in 2019. Along with "Our Past, Our Future: The Strategy for Scotland's Historic Environment", that

will help with the traditional skills that are needed for the sustainability of our heritage assets.

I highlight that the Minister for Higher and Further Education; and Minister for Veterans, in his response to Miles Briggs on 11 January 2024, recognised the need to ensure that stonemasonry and other traditional skills, including those in relation to stained glass windows, are prioritised in the apprenticeship and training offer.

Colin Beattie (Midlothian North and Musselburgh) (SNP): The impact of climate change on our historic environment is clear. Will the minister provide an update on the Scottish Government's latest engagement with HES regarding work that is under way to protect heritage from climate impact?

Kaukab Stewart: As the lead public body for heritage in Scotland, Historic Environment Scotland published "Our Past, Our Future: The Strategy for Scotland's Historic Environment". One of that strategy's key priorities is delivering the transition to net zero. It sits alongside HES's climate action plan, which spans until the end of 2025 and details how to tackle the causes and mitigate the impacts of climate change. Climate change does not only affect sites in Scotland, but Historic Environment Scotland is among the first to proactively tackle those issues.

Alasdair Allan (Na h-Eileanan an Iar) (SNP): Will the minister give an update on the long-running question of when further work will be progressed by Historic Environment Scotland to ensure that the iconic Kisimul castle in Barra can at least be partially reopened to the public?

Kaukab Stewart: I understand the member's disappointment that Kisimul castle is not open because of public safety measures. However, the safety of visitors and Historic Environment Scotland staff must continue to be prioritised. Management of the estate is an operational matter for Historic Environment Scotland. I understand that HES continues to engage regularly with Alasdair Allan. The head of the north region at Historic Environment Scotland is due to meet him shortly to discuss sustainable options for reopening Kisimul castle. I pay tribute to the member's long-standing and on-going campaigning on that.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): On a point of order, Presiding Officer. I extend my apologies to the chamber and to you for arriving to the chamber late and missing my question. It was entirely my fault; I had a diary malfunction.

The Deputy Presiding Officer: The situation is regrettable, but I appreciate that apology to the chamber.

That concludes portfolio questions on constitution, external affairs and culture.

Justice and Home Affairs

The Deputy Presiding Officer: The next portfolio is justice and home affairs. As ever, any member who wishes to ask a supplementary question should press their request-to-speak button during the relevant question.

Scottish Prison Service (Workforce)

1. **Emma Harper (South Scotland) (SNP):** To ask the Scottish Government what action it is taking to assist the Scottish Prison Service in the recruitment of new officers, in the light of reported concerns regarding an ageing prison officer workforce. (S6O-03332)

The Cabinet Secretary for Justice and Home Affairs (Angela Constance): Prison officers play a vital role in our justice system, which is reflected in the increase in the Scottish Prison Service resource budget by 10 per cent to £436.5 million this year. That will support the effective operation of our prisons as well as the recent two-year pay award, which has enabled the SPS to advertise better recruitment terms, which is continuing to assist with attracting new prison officers.

Last year, 581 appointments were made to prison officer roles, with plans in place to recruit up to 780 new officers this year, and the SPS's current prison officer vacancy rate is less than 1 per cent.

Emma Harper: Through discussions with prison staff in my South Scotland region and with constituents who have applied unsuccessfully to work for the service, it has become clear to me that the aptitude testing that is used for pre-interview screening is a barrier to recruitment. Prison staff told me that the best candidates for the position—those with life experience, strong interpersonal skills, empathy and understanding—are not always able to pass the numerical reasoning and spatial awareness online tests, which many feel are not relevant to the job. Given that, will the cabinet secretary outline whether that matter has been discussed with the SPS and whether consideration could be given to changing the aptitude testing for SPS recruitment?

Angela Constance: Scottish Prison Service recruitment practices are aligned with civil service recruitment standards and are underpinned by an assessment of the skills, values and behaviours of prospective employees. In 2019, the SPS removed minimum qualification requirements for prison officers. However, the aptitude test remains a critical mechanism to assure the organisation that those coming into it have the required literacy, numeracy and reasoning skills to operate

effectively as front-line members of staff in an operational role.

Although I have not discussed the issue with the SPS directly, I know that it regularly reviews its recruitment practices to ensure compliance with relevant guidance and legislation and to ensure that recruitment requirements are applied fairly and consistently.

Sharon Dowey (South Scotland) (Con): HMP Kilmarnock recently transitioned into public ownership, but the process of harmonising staff contracts with public sector terms and conditions is taking longer than expected. The Prison Officers Association Scotland has estimated that the SPS needs to recruit between 50 and 70 new staff for the prison. When will the harmonisation process be complete? Can the cabinet secretary update us on how many of the additional staff that are needed have been recruited so far?

Angela Constance: I assure Ms Dowey that there is no delay to the process, which was agreed and communicated well in advance of the very welcome move of HMP Kilmarnock into public ownership as part of the Scottish Prison Service.

As the SPS has said—and, indeed, as I have said on a number of occasions—the harmonisation process will take a year. That is because of the different—and, indeed, better—terms and conditions in the SPS, where there are two grades of prison officer. That is in contrast to the roles and grades in HMP Kilmarnock under its private owner. Harmonisation is an entirely normal and acceptable practice. It is excellent news that staff in HMP Kilmarnock will, in a short period of time, benefit from better terms and conditions.

The Deputy Presiding Officer: Question 2 was not lodged.

Hate Crime and Public Order (Scotland) Act 2021 (Promotion)

3. Sandesh Gulhane (Glasgow) (Con): To ask the Scottish Government for what reason it has reportedly spent nearly £400,000 of public money to promote Scotland's new hate crime laws. (S6O-03334)

The Minister for Victims and Community Safety (Siobhian Brown): Presiding Officer, £390,000 was invested in the hate hurts national hate crime marketing campaign, which ran from 11 March to 31 March 2024. It included a broadcast and print campaign.

The campaign aimed to raise public awareness of hate crime by showing the impact that it has on those affected, for example a disabled person or those affected by hate crime due to their race or religion, and to encourage those who are witnesses or victims of hate crime to report it.

During the development of the hate crime strategy, we heard from people who felt unable to leave their home due to their fear of being targeted by hate crime. We want to have a society where everyone feels safe. No funding was spent to promote the Hate Crime and Public Order (Scotland) Act 2021.

Sandesh Gulhane: We have heard what the minister has to say, but £60,000 of public money was squandered on the ludicrous hate monster campaign, which was patronising, embarrassing and offensive; it treated the Scottish public like children. Last Wednesday, during our debate on repealing the hate crime act, Stuart McMillan argued that the new law implements a higher threshold for criminality than the long-standing stirring up of racial hatred offence. Either the Scottish National Party's own MSPs do not understand the act, or they are right and the act makes it harder to prosecute actual hate in the form of racism. Which is it, minister?

Siobhian Brown: First, the hate monster campaign had nothing to do with the Scottish Government; it was a Police Scotland decision. In relation to hate crime, we know that lots of incidents have been reported over the past three weeks. However, figures that were released yesterday show that 654 hate crime incidents have been recorded by Police Scotland, of which 51 per cent were on race.

Rona Mackay (Strathkelvin and Bearsden) (SNP): The 2021 act has been the subject of much misrepresentation and inaccurate commentary, some of which appears to have been deliberate, which has caused confusion about what the act actually does. Can the cabinet secretary say any more about the steps that are being taken to ensure that accurate information about the act is available to the public?

Siobhian Brown: I have noted the misinformation on and misrepresentation of the act, and that many commentators have ignored the people in our communities whom the act seeks to protect. Following the statement in the Parliament last week, the Scottish Government published a new fact sheet, which, alongside existing information on the act, provides further clarity and factual information on what it does and, importantly, what it does not do. We are also undertaking a series of engagements across communities in order to listen and to raise awareness of hate crime.

Non-crime Hate Incidents (Recording)

4. Michelle Thomson (Falkirk East) (SNP): To ask the Scottish Government what discussions it has had with Police Scotland and the Scottish Police Authority regarding plans to incorporate any precedent set by the Miller v College of Policing

case into the recording of non-crime hate incidents. (S6O-03335)

The Cabinet Secretary for Justice and Home Affairs (Angela Constance): The United Kingdom-wide practice of recording non-crime hate incidents dates back to recommendations in the 1999 Stephen Lawrence inquiry report. The College of Policing recently published updated guidance on the matter for England and Wales, and, although the guidance is not directly applicable to Police Scotland, it is currently reviewing it. If there are proposed changes, they will be subject to consultation.

How hate crime is investigated and recorded is an operational matter for Police Scotland. However, I have discussed the issue with the chair of the Scottish Police Authority and will do so again, and I will raise it with the chief constable when we next meet.

Michelle Thomson: The cabinet secretary is correct in saying that my concern relates to Police Scotland and the fact that, at the moment, we appear to have an unclear process—at least in the eyes of the public—as to what is termed a non-crime hate incident. My concern is that a number of people may have sought a subject access request notice and found themselves egregiously believing that their name has been recorded. Has the cabinet secretary explored that possibility with Police Scotland as part of her deliberations, or does she intend to do so?

Angela Constance: I have to be clear that this is an operational matter, but I would hope that my conversations with the SPA and Police Scotland will cover a range of matters, many of which have been raised directly with me in the chamber. I agree that clarity on these matters is important. My understanding is that Police Scotland considers the work to review the guidance and the code that was published by the College of Policing to be a priority. It is progressing matters and will come to a conclusion shortly. Thereafter, if there are any changes, it will consult with its officers, stakeholders and staff associations. I will endeavour to keep the member updated.

Murdo Fraser (Mid Scotland and Fife) (Con): In her response to Michelle Thomson, the cabinet secretary indicated that Police Scotland is still applying its pre-existing policy on recording non-crime hate incidents. Can she clarify that that policy is being applied on an even-handed basis? Evidence would suggest that that is no longer the case.

Angela Constance: I state unequivocally that I have faith in Police Scotland as an organisation that has human rights at its core and that will apply the law and its own procedures fairly and without fear or favour to any party. If Mr Fraser would like

to further explore any issues, I would be more than happy to do that, notwithstanding that this is an operational matter.

Pauline McNeill (Glasgow) (Lab): There is some confusion on the matter, and I am further confused by the cabinet secretary's answer. She said that the police apply the law. Is hate incident reporting the law or is it a process? If it is a process, given that England and Wales dropped it last year, and given that I have already raised the matter, does the cabinet secretary share my concern about that? Is the Government content that putting something into someone's record that is not required by law complies with human rights law—or am I confused? I think that we need to get the matter resolved as soon as possible.

Angela Constance: As I said in response to colleagues, the matter is being considered as a priority by Police Scotland. It is important to acknowledge that, although the original ruling and the information that has come from the College of Policing are not directly applicable to Scotland, it is imperative that we look at those in order to evaluate them and consider them.

With regard to what the ruling said, in brief, the judge held:

“That is not to say that perception-based recording of non-crime incidents is per se unlawful, but that some additional safeguards should be put in place”.

That is what those with operational responsibility are seeking to address, to ensure that we can have maximum clarity and confidence.

However, non-crime hate incidents are separate from the hate crime legislation, and Police Scotland has been clear that those incidents are predicated on the vulnerability of the complainer and are used primarily to determine what care and support can be provided to them. Those incidents are not recorded against the alleged perpetrator of the NHC1. They can be recorded on a vulnerable person database, but there is no direct link between the database and systems used for disclosure checks.

The Deputy Presiding Officer: I appreciate the complexity of the responses, but they need to be briefer.

Question 5 was not lodged.

Scottish Legal Complaints Commission (Complaints Handling)

6. Michael Marra (North East Scotland) (Lab): To ask the Scottish Government, in light of the reported situation facing former clients of McClure Solicitors, what discussions it has had regarding enabling the Scottish Legal Complaints Commission to consider groups of complaints,

rather than considering complaints purely on an individual basis. (S6O-03337)

The Minister for Victims and Community Safety (Siobhian Brown): As I have said before, my sympathies are with the former clients who have been affected by the collapse of McClure Solicitors.

The Scottish Government has discussed with the Scottish Legal Complaints Commission and the Law Society of Scotland whether a group proceedings complaint would be feasible, and their view is that it is important that individual complaints continue to be investigated on their own merits and that complaints are detailed and submitted by the individuals affected. That does not prevent specific staff who are familiar with the matter from being allocated those complaints to consider.

Michael Marra: A number of my constituents in the north-east were clients of McClure's and were advised by solicitors to put their house into trust. Those constituents are now facing a very expensive and complex legal process to end the trust, and it would appear that clients in particular areas of the country were targeted and sold services that they did not need. The fear of care costs in the future was used to justify significant legal and financial decisions that are now costing my constituents dearly.

Enabling the SLCC and the Law Society to investigate groups of complaints could allow for early detection of such patterns of behaviour in the advent of such cases. Therefore, what more is the Scottish Government doing to understand the scale of the problem that former clients of McClure's are facing and the geographical distribution of those clients across the country, and what further changes in legislation can be made to prevent similar situations from happening in the future?

Siobhian Brown: The Regulation of Legal Services (Scotland) Bill introduces the authorisation of legal businesses, bringing benefits such as greater consistency in regulating legal firms and enabling the Law Society as a regulator to identify and address deficiencies early. I will lodge amendments at stage 2 that are intended to deliver further improvements to the legal complaints system, and my officials have been working closely with the Law Society and the Scottish Legal Complaints Commission. I am very happy to meet Mr Marra if he wants to discuss any of those matters.

Stuart McMillan (Greenock and Inverclyde) (SNP): I thank the minister for her comments. Can she speak to any further amendments that she is considering to the Regulation of Legal Services (Scotland) Bill that would relate to the situation

with McClure's Solicitors? As the minister knows, that situation has affected many of my constituents.

Siobhian Brown: I thank Mr McMillan for that question. I know that he has been doing a lot of work on the matter over previous months. As I said to Mr Marra, I am considering options for more amendments ahead of stage 2 and reflecting on the views of stakeholders and MSPs with the intention of building consensus around reform. I will lodge amendments at stage 2 to deliver further improvements to the legal complaints system. As I said, my officials are working closely with the Law Society and the Scottish Legal Complaints Commission on amendments to make significant improvements.

Damages for Personal Injury

7. Marie McNair (Clydebank and Milngavie) (SNP): To ask the Scottish Government within what timescale it plans to respond to the Scottish Law Commission's findings and recommendations arising from its consultation on damages for personal injury. (S6O-03338)

The Minister for Victims and Community Safety (Siobhian Brown): The Scottish Law Commission has not yet published a report following its damages for personal injury consultation. It is expected in the summer and I look forward to receiving it. When I have had time to consider any findings and recommendations, I will respond and ensure that the Parliament is aware of my response.

Marie McNair: Does the minister agree that the legal time bar for claims from those who are pursuing compensation because of exposure to asbestos is unjust and needs to be brought to an end? The Scottish Law Commission is likely to present recommendations on the issue in its forthcoming report, with draft legislation. Will the Scottish Government commit to urgent consideration of the commission's work, including possible changes to the law, to allow claims to be made? Many have been denied justice at present, and that needs to be remedied as soon as possible.

Siobhian Brown: The law of limitation serves an important function to ensure that legal claims are advanced quickly. Where a claim is made outwith the relevant time limit, the court can exercise its discretion to override it and allow a claim to proceed.

I will be interested to hear what the SLC has to say on this important issue. As I mentioned, I expect its report to be published this summer. I will respond to its recommendations once I have had time to consider them fully, and I will make sure that the member and Parliament are kept aware.

Police (Mental Health Support)

8. Mark Griffin (Central Scotland) (Lab): To ask the Scottish Government what action it is taking to support the mental health of front-line police officers, in light of reports that reductions in the number of police officers is putting increasing pressure on the service. (S6O-03339)

The Cabinet Secretary for Justice and Home Affairs (Angela Constance): We have provided an additional £75.7 million of resource funding for policing, which enables Police Scotland to retain police numbers of around 16,500 to 16,600. Scotland continues to have more police officers per capita than England and Wales and higher pay ranges for officers at all ranks. The number of new recruits stands at around 1,680 since 2022.

Although the mental health of police officers is a matter for the chief constable under the oversight of the Scottish Police Authority, I assure the member that the Scottish Government supports recent initiatives such as the development of a wellbeing action plan, which will be presented to the SPA this summer.

Mark Griffin: Figures that were obtained in response to a freedom of information request have shown that, between 2018-19 and 2022-23, the number of working days lost to mental health absences soared by 67 per cent among police officers and 165 per cent among police staff. Can the cabinet secretary give an update on the number of mental health absences among police officers and staff and say what impact that has had on the number of crimes that are being investigated?

Angela Constance: I will certainly request that the SPA provides that information directly to Mr Griffin.

The health and wellbeing of police officers and civilian staff is a matter of the utmost importance. I was pleased that the chief constable has ensured that the matter is very high on her agenda. Policing is, of course, a relentless job and it is a job like no other, but the issue of wellbeing, workload and reducing unreasonable demands on police officers is being taken very seriously indeed by Police Scotland, the Scottish Government and the SPA. We will endeavour to work together to take matters forward, particularly in the light of the recent "Frontline Focus—Wellbeing" report from His Majesty's Inspectorate of Constabulary in Scotland.

The Deputy Presiding Officer: We have a number of supplementary questions.

Audrey Nicoll (Aberdeen South and North Kincardine) (SNP): Can the cabinet secretary provide any update regarding the steps that are being taken to ensure that the increased SPA

resource budget specifically supports further police recruitment?

Angela Constance: Following the publication of the Scottish budget last December, the chief constable told Parliament's Criminal Justice Committee that the policing budget settlement for 2024-25 would allow Police Scotland to restart officer recruitment for the year ahead and to retain officer numbers at around 16,600. I was very pleased to see that, last month, Police Scotland welcomed almost 200 new officers, with further intakes planned throughout this year. The SPA budget has increased by 5.6 per cent in revenue; that was certainly welcomed by the chief constable and puts policing in this country on a very strong footing.

Russell Findlay (West Scotland) (Con): The national police wellbeing service supports officers across the United Kingdom with its blue light wellbeing framework. Police Scotland said that it intended to sign up but now appears to have gone cold. In its new report, His Majesty's Inspectorate of Constabulary in Scotland urges Police Scotland to revisit that. Does the cabinet secretary support that call?

Angela Constance: I very much welcomed the independent report from the independent inspectorate. It is a matter and a report that I have discussed on a number of occasions with His Majesty's chief inspector of constabulary and the SPA. Although all the recommendations made by HMICS are for Police Scotland and the SPA, I assure Russell Findlay that the Government stands ready to support the implementation of those recommendations.

Beatrice Wishart (Shetland Islands) (LD): Years of staff time is being lost because officers and supporting teams are struggling under the pressure. In 2022, 65 per cent of officers who left with less than two years' service cited personal reasons for leaving. What more can the Scottish Government do to support Police Scotland's new police officers with their mental health and to ensure that the investment in their training is backed up with investment in their wellbeing?

Angela Constance: Ms Wishart raises an important point. One of the central points of the HMICS "Frontline Focus—Wellbeing" report was that, although Police Scotland has excellent arrangements in place when there are catastrophes and incidents that are traumatic for serving police officers, further action is recommended around those organisational and day-to-day stressors. Ms Wishart's point is well made that, particularly for new recruits, there needs to be an additional focus and endeavour.

The Deputy Presiding Officer: That concludes portfolio question time on justice and home affairs.

There will be a brief pause before we move to the next item of business to allow members on the front benches to change.

Business Motion

14:52

The Deputy Presiding Officer (Annabelle Ewing): The next item of business is consideration of business motion S6M-12947, in the name of George Adam, on behalf of the Parliamentary Bureau, setting out a timetable for the stage 3 consideration of the Children (Care and Justice) (Scotland) Bill. I ask any member who wishes to speak against the motion to press their request-to-speak button.

Martin Whitfield (South Scotland) (Lab): On a point of order, Presiding Officer. I seek your guidance in relation to rule 9.10.5 of the standing orders, which talks about the proper form of amendments, and, in particular, the use of languages other than English. Indeed, there is a publication policy by the Scottish Parliamentary Corporate Body, dating from 2018, which states that the working language of the Parliament is English and that the Parliament legislates in English. There is provision for another language to be used where appropriate, and where prior approval of the head of chamber and reporting, as the role was called then, has been sought.

I have had useful correspondence with the Minister for Parliamentary Business about why Latin has been used in an amendment that was lodged quite late in the lodging period. I seek your guidance on whether prior approval was sought for the use of Latin. I understand why it has been used but, procedurally, my understanding is that, for the amendment to be in an appropriate form, that approval needs to have been sought first.

The Deputy Presiding Officer: I thank Mr Whitfield for his point of order. In relation to today's proceedings, I can confirm that the Latin terms in the amendment concerned are precise terms that are used in the Criminal Procedures (Scotland) Act 1995 and are, consequently, used as standard in criminal proceedings. There is no suitable English translation that would be commonly understood.

However, I recognise that it would be helpful to reflect on the issue that the member has raised in relation to the Scottish Parliamentary Corporate Body policy concerned.

I call George Adam to move the motion.

The Minister for Parliamentary Business (George Adam): I am trying to think back to my schoolboy Latin, but I will just say, "Moved".
[Laughter.]

The Deputy Presiding Officer: Thank you, minister. I think that we will stick to the English translation from now on, to the extent possible.

Motion moved,

That the Parliament agrees that, during stage 3 of the Children (Care and Justice) (Scotland) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limits indicated. Those time limits, calculated from when the stage begins and excluding any periods when other business is under consideration or when a meeting of the Parliament is suspended (other than a suspension following the first division in the stage being called) or otherwise not in progress, are as follows:

Groups 1 to 3: 1 hour 10 minutes;
 Groups 4 to 6: 2 hours 5 minutes;
 Groups 7 to 9: 3 hours 5 minutes;
 Groups 10 to 12: 4 hours 10 minutes;
 Groups 13 to 15: 5 hours 10 minutes.—[George Adam]

Motion agreed to.

Children (Care and Justice) (Scotland) Bill: Stage 3

14:55

The Deputy Presiding Officer (Annabelle Ewing): The next item of business is stage 3 proceedings on the Children (Care and Justice) (Scotland) Bill. In dealing with the amendments, members should have the bill as amended at stage 2—that is, Scottish Parliament Bill 22A—the marshalled list and the groupings of amendments.

The division bell will sound and proceedings will be suspended for around five minutes for the first division of the stage 3 proceedings. The period of voting for the first division will be 45 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate.

Members who wish to speak in the debate on any group of amendments should press their request-to-speak button or enter RTS in the chat function as soon as possible after I call the group.

Members should now refer to the marshalled list of amendments.

Before section 1

The Deputy Presiding Officer: Group 1 is on the rights and welfare of children. Amendment 40, in the name of Martin Whitfield, is grouped with amendments 43, 45, 47, 63 to 67 and 84.

Martin Whitfield (South Scotland) (Lab): I intend to speak to amendments 40, 43, 45, 47 and 63 to 67 in my name. The purpose of the bill, which is succinctly described in the revised explanatory notes that attach it, is to deal with the

“treatment of children within the criminal justice system”,

the care of children who are involved in the criminal justice system and

“the interrelationship between the care system and the criminal justice system”.

This lengthy bill covers a large number of matters but has at its heart something on which I hope that we can all agree: that the children and young people of Scotland deserve a level of respect and support to facilitate their development and, indeed, to make Scotland the best place to grow up in.

The purpose of my amendments is, in the main, to underpin what should be the foundational elements of the bill: promoting the wellbeing and the rights of children. The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill was passed earlier this year. That legislation enshrines the importance that we in Scotland ascribe to the

rights and the welfare of our young people. It is to that purpose that my proposed new sections apply.

Amendment 40 highlights the importance of that purpose, thereby underpinning the whole structure of the bill and, more important, underpinning the structure of how the bill will be implemented. I would hope that it is not beyond agreement across this chamber that a wellbeing and rights approach is the way that we should view all legislation that potentially affects our children and young people.

At stage 2, I moved a similar amendment. At the time, I was disappointed in the minister's response, which highlighted an apparent contradiction between seeking the nuance that the bill has and what was contained in my amendment. It was suggested that my amendment would blur the overall view. My submission to members and, indeed, people outwith this chamber, is that, if we cannot set out at the outset of the bill the importance of the wellbeing and the rights of the child—the rights that they hold at a United Nations level and here in Scotland and, indeed, that should be held at a level where every young person lives—we are doing a disservice to our young people.

The other amendments in my name in this group, in effect, insert welfare and rights where it is appropriate to do so.

15:00

In amendment 45, I invite the Scottish ministers to make regulations that would allow for young people to give their views in a manner that they prefer. In the system in which we adults travel, in a whole variety of ways, there is an understanding that the formats in which discussions are held, papers are served and arguments are made are such that adults can understand. There is a much greater pressure when young people and children are involved, depending on their age.

It is not without merit that Scotland accepts that we might have to amend the way that things are explained to young people or to the very specific young person who sits in front of us. There is a reality known to parents that we have to talk to children in such a way that they can understand and be part of decisions. There is an expectation that those in our teaching profession will do the same and that the style and format that they use is directed towards an individual child rather than a whole group. In effect, amendment 45 makes that suggestion to the Government, and I hope that it will be seriously considered.

Amendment 47 relates to where a panel has not opted to put in place a compulsory supervision order. The amendment requests that, when a child who is subject to monitoring and review on that

basis has experienced trauma, domestic abuse or other violence,

“been a victim of crime, abuse or harm ... has mental health issues ... has a learning disability”

or other vulnerabilities, that is taken into account and identified—hence the list in the amendment.

Amendment 63 seeks to insert “and rights” after the word “welfare”, because that should underpin our approach to all children. Amendment 65 is simply a tidying amendment in relation to the requirements.

Amendment 66 would require a court that is dealing with a child as an offender to allow the child to give their views in a manner that is preferable to the child. That would extend their rights so that the court can hear from a young person or child in a way that is most suitable to them, rather than the court expecting the young person to adopt an attitude or approach that is more right for an adult.

My final amendment in the group is amendment 67, which makes provision for a court that is dealing with a child as an offender to not hear the views of the child if it is satisfied that the child is

“not capable of forming a view”,

but that it must start with the presumption that the child is able to do so. There will, unfortunately, be situations in which young people come into the system who are not in a position to understand what is happening to them, and we require the court to have the ability to deal with that situation.

I will stop at that point but will deal with other matters at the end of the debate.

I move amendment 40.

Ruth Maguire (Cunninghame South) (SNP): I intend to speak to amendment 84 in my name.

Scotland is the first nation in the United Kingdom to incorporate UNCRC into Scots law, but that pleasing headline is only worth something if it makes a material difference to our children. I think that we all agree on the importance of upholding and promoting the rights of all children, whether they are in direct contact with the system as witnesses, victims or perpetrators, or are impacted because of a family member. I acknowledge the complexity of that and, of course, that children can be both victims and perpetrators of harmful behaviour.

It is fair to say that the balance of the bill, in terms of the competing rights of all children, was greatly improved through the committee process. I appreciate the willingness of colleagues on the Education, Children and Young People Committee to work across party lines. I also acknowledge and

thank the Scottish Government for the distance that it has travelled.

The aim of amendment 84 is to place a duty on the Scottish Government to report on the rights of all children who come into contact with the system, with the purpose of ensuring that, should the rights of victims be compromised, the agencies and the Government will be held to account and that it will be clear where changes need to be made to practice.

I acknowledge and accept that my amendment is quite broadly drawn and that it would have implications for all criminal justice agencies as well as the children's hearings system. That was intentional and was in response to what I have witnessed during the bill's progression and to the opaque manner in which the sometimes complex ecosystem of human rights is prioritised at the moment. In the Scottish Parliament, we have to get past the easy and pleasing support of specific slogans, campaigns or campaign groups and get really serious about action and accountability. I believe that the reporting duty that I propose would help in that regard.

I appreciate that work is on-going in the area, specifically around the UNCRC and a children's rights scheme. It would be helpful to know from the Minister for Children, Young People and Keeping the Promise how advanced that work is and when it is likely to make a difference to Scotland's children.

I understand that a number of reporting amendments have been lodged. I will listen carefully to colleagues and, in particular, the minister. If there is an amendment that is more suitable in achieving the aims, I will not move mine.

Roz McCall (Mid Scotland and Fife) (Con): I say from the outset that the Conservatives, as a group, will support all the amendments in the group, although I have just heard Ruth Maguire say that she might not move amendment 84.

Amendments 40, 43 and 63, in the name of Martin Whitfield, which would add references to children's rights along with the stipulated welfare of children, are of paramount importance. Although at stage 2 the minister responded to similar amendments by saying that the rights of an individual young person and their welfare can clearly come into conflict, I join other members in struggling to see an instance in which the decision would be that their welfare should take priority over their fundamental rights. I am therefore pleased that the amendments have been lodged again at stage 3, and we will support them.

On Ruth Maguire's amendment 84, which is on a review of children's rights, I fundamentally believe that we must continue to assess the

progress of the changes that we are being asked to vote for this afternoon. We must assess not only how the bill operates in practice but how any alterations impact on victims' rights and experiences, how the rights of all children who are involved in hearings and criminal proceedings are affected, and how changes to legislation affect other children who might be on the periphery but on whom the bill will have a bearing.

It has been apparent throughout the progress of the bill that there is a concern about its implementation in practice and whether sufficient resources will be forthcoming and provided at the right time. We are looking for a balance to ensure that we have sufficient volunteers for the children's hearings panel, given all the system changes; increased retention of social workers; local authority upscaling; an increased number of foster carers; increased residential placement and safeguarding capacity and so on. All that needs to be reviewed, so we would support amendment 84.

Willie Rennie (North East Fife) (LD): Like the Children and Young People's Commissioner Scotland, I support amendment 45, which is on the commencement of section 3 of the Children (Scotland) Act 2020. That would strengthen children's rights to participate in hearings and express their views. However, in truth, we should not be in the position where, four years on, additional legislation is required to bring that measure into force. Children's rights should not be delayed.

I am opposed to Martin Whitfield's amendment 47. It is well intentioned, but I am persuaded by the children's commissioner that the amendment would duplicate the existing role of public authorities in the getting it right for every child framework.

I am disappointed that Ruth Maguire is not going to press her amendment 84, which is obviously because she does not have the Government's support. I think that there is some merit in the amendment. I accept her point that it is quite wide-ranging, but we should try to get the best intelligence possible about the impact on victims.

On reporting requirements more generally, Victim Support Scotland has identified a significant lack of information and data relating to victims' experiences of the children's hearings system and case outcomes for victims. Ruth Maguire's amendment in this group and her amendment 48, which is in a later group, would have gone some way towards improving that understanding, so I am disappointed that she is not pressing them, although I fully understand her position.

The Minister for Children, Young People and Keeping the Promise (Natalie Don): Amendment

40 is almost identical to an amendment that Mr Whitfield pressed at stage 2 and that the committee voted against. I reiterate what I said then about the Government's commitment to promoting children's rights, which is evidenced by the forthcoming commencement of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 and our commitment to keep the Promise.

Although I understand and share the sentiment behind amendment 40, the Government's position has not changed. The bill's long title already lists the bill's purposes, as do the accompanying documents and as have ministers in their evidence to committees and statements in the Parliament. Such a purpose clause is simply not necessary or appropriate; it would not work in a bill of this nature.

The bill contains almost no freestanding self-contained provisions. Instead, it amends 20 other pieces of legislation. Inserting such a purpose statement at the outset would blur the required nuances and leave too many unanswered questions about how it would apply to those enactments. Some of the other enactments already contain their own overarching statements of purpose or general principles, and it is not clear how amendment 40 would sit with those. Furthermore, as I have said, the bill's aims are clear as a matter of established Government policy and action. Therefore, I cannot support amendment 40.

Pam Duncan-Glancy (Glasgow) (Lab): I am challenged here. It is key that the rights and wellbeing of children are recognised all through the system—that is really important. The minister will be aware of some of the concerns about capacity that were raised by committee witnesses. Surely, stating in the bill that the wellbeing and rights of children are at the forefront of the bill would mean that, even if capacity were stretched, those things could not be compromised. Does the minister accept that it would be useful to put that in the bill for that reason?

Natalie Don: As I have said, I appreciate those sentiments, but support for children's rights is demonstrated throughout the bill, so I do not think that that needs to be stated at the beginning of the bill in a purpose clause. That would not work for this bill. That is the Government's position.

Amendment 43 would change the focus of the test to be applied across the scope of the Children's Hearings (Scotland) Act 2011. It would, by definition, imply that a child's rights are to be given the same weight as their welfare. We know that, in some cases, that simply cannot happen, as there might be an unavoidable conflict between welfare and rights. We must remember that welfare is the primary indicator for safeguarding

children who are referred to the hearings system, as it has been for many years.

More broadly, on the issue of rights and existing requirements, the children's hearing or court will already consider the potential impact of any decision, as they already have extensive obligations under the European convention on human rights and the UNCRC. As public authorities, they must act compatibly. Therefore, the necessary balance of rights is already achieved under the existing provisions. On the basis that amendment 43 would distort that balance, I cannot support it.

On amendment 45, members will be aware that the recent "Hearings for Children" report included a recommendation to commence section 3 of the Children (Scotland) Act 2020 and that the Government accepted that recommendation without qualification. Assessment work is under way to establish what other provisions of the 2020 act, in addition to section 3, could be commenced. We are expediting that work, and I would be happy to continue to provide updates to the Education, Children and Young People Committee on progress with that.

Martin Whitfield: I understand that the minister is expediting that work, but can she give a firmer timeline for that?

Natalie Don: I am not able to do so at present. The work is under way and, as I said, I am more than happy to keep the committee and Martin Whitfield updated.

It is likely that court rules and Scottish Courts and Tribunals Service case management systems will require changes. It is essential that that preparatory work is able to continue so that we commence when the responsible agencies are ready. Therefore, I urge Martin Whitfield not to move amendment 45.

Amendment 47 replicates an amendment that was not agreed to at stage 2. It includes a broad range of conditions for considering monitoring and review if a child is not in need of compulsory measures. I am very conscious that the amendment would likely apply to virtually any child who was referred. We do not need to legislate for further intervention or monitoring when a hearing reaches that conclusion. Local authorities already provide support and guidance to children and their families on a voluntary basis, and amendment 47 would not change or enhance that.

To act as is set out in amendment 47 could result in disproportionate interference with the child's rights. The principle of minimum intervention—making children subject to compulsory measures only when that is absolutely necessary—is a key aspect of the children's hearings system. Ensuring that services and

supports are available to children, young people and adults who require them has, similarly, been a long-standing requirement of Scottish statute. Our recent commitments in responding to the Promise and the "Hearings for Children" report will go further in this area, if necessary, following engagement and consultation. Therefore, I cannot support amendment 47.

15:15

Amendments 63 to 67 would place a number of new duties on courts to consider the rights of a child offender as a primary consideration, alongside welfare. That includes further requirements to have regard to the child's rights and views. Section 14 of the bill already makes provision for the court to have regard to the safeguarding of a child offender's welfare.

Amendments 63 and 64 seem unnecessary and could result in confusion. Courts already act under ECHR and UNCRC duties to act compatibly. Moreover, the amendments do not define a child's rights, nor do they elaborate on how they interact or, indeed, may conflict with their welfare.

It is important that the bill was subject to full public consultation, which the Scottish Courts and Tribunals Service and the judiciary fed into. Such stakeholders have spoken to my officials since Mr Whitfield's amendments were lodged, and they raised the fact that such matters would need careful consideration in relation to systems and resource. The Government is acutely mindful of the fact that new duties on busy public services must be properly considered.

Amendments 66 and 67 appear to stipulate when a child is unable to form a view. However, article 12 of the UNCRC tells us that a child has a right to be heard. That is just one example of how the amendments would put unduly prescriptive duties on the court, which could interfere with its own responsibility to act compatibly with the UNCRC. The Government therefore cannot support amendments 63 to 67.

Finally, amendment 84 seeks to place a broad review and reporting duty on ministers regarding children who are involved in the hearings system and in criminal proceedings. I thank Ms Maguire for the sentiment in her amendment and for her engagement across the bill. However, there are a number of issues with the proposal. First, the amendment as drafted is extremely wide in scope, with implications for every criminal justice agency, as well as for the children's hearings system and, likely, social work. Those organisations have not been consulted on that level of change, and the resource implications for each body could be considerable. We do not want to unwittingly divert

resources away from front-line services that provide crucial supports.

It is unclear whether amendment 84 would require changes to the children's hearings system's case management system. Such an undertaking should not be embarked on lightly, given the resource and delivery implications for that public body. As the member alluded, there is a host of work going on in the area.

The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 provides for a children's rights scheme to be put in place by Scottish ministers in relation to better securing or further affecting the rights of children. That scheme will be informed by consultation with the Children and Young People's Commissioner Scotland and the Scottish Commission on Human Rights, among others. It will be revised on a regular basis to capture any emerging issues.

Ruth Maguire: Will the minister give an indication of the timescale for that work?

Natalie Don: The work is currently under way and, as I have said, it will be consulted on. Unfortunately, I do not have a timescale for that at the moment, but I am more than happy to keep the member updated on it.

The treatment of children in the justice system is a known area of interest for the children's commissioner and others. As I have said, something in that area will be forthcoming, will be informed by consultation and will be proportionate in its resource implications.

Various amendments to reporting requirements have been lodged by members across the parties. Ms Duncan-Glancy proposes a reporting requirement in amendment 87, which we will debate in a later group. I believe that that amendment sets out a more proportionate approach that goes some way towards meeting the aims of the amendments in this group, and the Government will support it when it is debated in group 15.

In summary, I cannot support the amendments in this group and I ask the relevant members not to press them. If they are pressed, I urge members to reject them.

The Deputy Presiding Officer: I call Martin Whitfield to wind up and to press or withdraw amendment 40.

Martin Whitfield: It has been a fascinating discussion and reflective of what happened at stage 2 with a number of the amendments. Members should be seriously concerned about certain areas. In particular, the Government's argument in response to amendment 40 seems to be, in essence, "Of course we should take the rights of children as important, but they exist in

plenty of other legislation, so we do not need to put them into this bill.” That is on the grounds that there are almost no specific additions in the bill, but, of course, there are some specific additions in the bill. Indeed, when the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 was passed there were indications that the Children (Care and Justice) (Scotland) Bill had moved too far to encompass those rights. Sadly, I accepted the Government’s argument on that.

However, it is slightly disingenuous to use the UNCRC as one of the reasons why it is not necessary to include the rights of children. The UNCRC talks about establishing as a foundational principle that the rights of children should be considered at all points, and we have the opportunity to show that we mean to do that rather than we are just saying it or that we intend to do it or we will bring it in.

The minister has drawn members’ attention to amendments that she suggests that we—and those outwith the chamber—have not had the opportunity to properly investigate at stage 2. The phrase that she used was that they have not had the careful consideration that is needed. Again, I think that that issue will return later in the afternoon in respect of other amendments that have been lodged. There was going to be investigations and discussions about the issue prior to stage 2, but the opportunity has arisen only at this stage. I understand what the minister has said about the opportunity for those outwith this place to comment, but it is fair to say that a number of third sector organisations have commented on all of the amendments.

I will return to some of the data points later because I think that we will unfortunately—or fortunately—spend a great deal of this afternoon discussing the importance of identifying objectively and subjectively the effect of the journey through both types of interaction with the state, at the criminal level and in children’s hearings, for the purpose of legislation that is coming further down the line.

For the purposes of this section, Deputy Presiding Officer, I will press amendment 40.

The Deputy Presiding Officer: Thank you, Mr Whitfield. The question is, that amendment 40 be agreed to. Are we all agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. As this is the first division of the stage 3 proceedings, I suspend the meeting for five minutes to allow members to access the digital voting system.

15:21

Meeting suspended.

15:27

On resuming—

The Deputy Presiding Officer: We will now proceed with the division on amendment 40. Members should cast their votes now.

The vote is closed.

Alexander Burnett, who is online, has a point of order.

Alexander Burnett (Aberdeenshire West) (Con): The PIN was not shared with those members who are participating online. As a result, I was not able to vote in time. I would have—*[Interruption.]*

The Deputy Presiding Officer: Thank you, members. I ask Mr Burnett to please repeat what he said, because I did not hear.

The photograph that is appearing against Mr Burnett’s name is incorrect. Notwithstanding that, I ask Mr Burnett to please repeat his point of order.

Alexander Burnett: The PIN was not shared in the normal way with those members who are participating online, so I was not able to join and vote in time. I would have voted yes.

The Deputy Presiding Officer: Thank you. That will be recorded. I understand that the PIN was shared.

15:30

Bill Kidd (Glasgow Anniesland) (SNP): On a point of order, Presiding Officer. I did have the PIN and it still did not work. I would have voted no.

The Deputy Presiding Officer: Thank you, Mr Kidd. That will be recorded.

The Minister for Small Business, Innovation, Tourism and Trade (Richard Lochhead): On a point of order, Presiding Officer. My app would not connect. I would have voted no.

The Deputy Presiding Officer: Thank you, Mr Lochhead. That will be recorded.

The Cabinet Secretary for Wellbeing Economy, Net Zero and Energy (Màiri McAllan): On a point of order, Presiding Officer. Likewise, I did not have the PIN. I would have voted no.

The Deputy Presiding Officer: Thank you, Ms McAllan. That vote will be recorded.

For

Baillie, Jackie (Dumbarton) (Lab)

Baker, Claire (Mid Scotland and Fife) (Lab)

Balfour, Jeremy (Lothian) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Clark, Katy (West Scotland) (Lab)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)

Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Robertson, Angus (Edinburgh Central) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Deputy Presiding Officer: The result of the division is: For 46, Against 64, Abstentions 0.

Amendment 40 disagreed to.

Section 1—Age of referral to children’s hearing

The Deputy Presiding Officer: Group 2 is on the meaning of “child”. Amendment 41, in the name of Russell Findlay, is grouped with amendments 50 to 53, 59 to 62, 69 to 79, 83 and 90 to 97. I call Russell Findlay to move amendment 41 and speak to all amendments in the group.

Russell Findlay (West Scotland) (Con): I will speak to amendment 41 in my name and the 28 consequential amendments. The amendment was lodged in consultation with Victim Support Scotland. Although the bill will make significant changes to Scotland’s criminal justice system, Parliament decided that the Education, Children and Young People Committee, rather than the Criminal Justice Committee, should deal with it. That is understandable, given the abundance of substantial and complex legislation passing through the justice committee, but it is also a

matter of concern that neither I nor my justice committee colleagues have had a meaningful opportunity to engage with the bill.

During stage 2, I lodged four amendments and supported one other in the name of Roz McCall. Due to a calendar clash with the justice committee, my colleague Liam Kerr kindly spoke to my amendments at stage 2. Those amendments were unsuccessful, although some secured cross-party support. However, serious concerns remain, and this is our last opportunity to address them.

The bill raises the maximum age for referral to the children's panel from 16 to 18 and amendment 41 would remove that section from the bill. Put simply, the age limit for referral would therefore remain at 16. I need to make it clear that the amendment does not apply to any provisions in the bill relating to young offenders institutes or places where children can be detained.

I understand that amendment 41 might not sit easily alongside the United Nations Convention on the Rights of the Child. Although the amendment is mostly probing in its nature and I might not push it to a vote, I think it is important for the minister to meaningfully address what her Government is doing to ensure that the panel system will be able to cope with the expected influx of new cases. The same goes for criminal justice social workers who are already struggling—the Government keeps adding to their workload. Just last year, it gave them more to do with the Bail and Release from Custody (Scotland) Act 2023.

The minister told the education committee that increasing the age to 18 would see up to 8,000 more referrals to the panel each year, which would result in thousands more panel hearings. However, the system is already struggling to recruit volunteers and admits that it will be a challenge to meet the significant new demand. Then there is the cost, with the panel saying that its costs alone could rise by 42 per cent.

I would like the minister to put on record today an explicit commitment that her Government's legislation will not end up harming young people. I know that it is not her intent, but if those public services are not ready for this new law, more crime victims will inevitably suffer. We already know that many of those victims will be young people—kids who have suffered life-changing harm, such as violent attacks filmed on mobile phones, and who are unable to leave their homes or return to school, with trust shattered, education disrupted and lives destroyed. They are left traumatised and in need of help, which they do not get, and they watch helplessly as their attackers are given support. They are deprived of information, and often deprived of justice. The Government should not use legislation to virtue

signal if its actions will cause real-life harms, especially to young people.

A system that is unprepared is a system in which mistakes will happen. If the minister cannot give those explicit commitments, she should be candid and accept amendment 41 and the other amendments in the group. If that is the case, she must press pause, for the sake of child crime victims, other victims and the professionals who are being expected to make the law work in the real world.

I move amendment 41.

Willie Rennie: To be frank, Russell Findlay's amendments eviscerate the heart of the bill. If they are passed, they would keep more children in the criminal justice system. The amendments undermine the Promise, to which the Conservatives previously signed up; they go against the general principles of the bill, to which the Conservatives agreed at stage 1; they are incompatible with the UNCRC, which the Parliament, including the Conservatives, supported to be incorporated into law; and they undermine the approach of Russell Findlay's Conservative colleagues on the education committee. Just how many U-turns is Russell Findlay prepared to make in one day?

Russell Findlay: I thank Mr Rennie for taking an intervention, but I think that he may have written his speech before he listened to what I said. The point that I am making is that amendment 41 is largely a probing amendment; it is up to the Government to explain the workability of the legislation and its compatibility with the UNCRC.

Willie Rennie: Of course, but there are ways to do that. For example, we will consider amendments from Pam Duncan-Glancy later on that seek to probe on the issue of resources. However, to blow a hole in the whole bill by removing the provision for moving the age up to 18 is a dramatic step. There are much more effective ways to address the issue, and I suspect that Mr Findlay's approach reveals the actual instincts of the Conservatives, who do not support the major provisions of the bill.

As Mr Findlay's colleague Meghan Gallacher said yesterday, we should

"allow kids to be kids".—[*Official Report*, 23 April 2024; c 10.]

The impact on the rights of victims as a result of the proposed change in section 1 has rightly been the focus of debate, and it is important that we consider that aspect. However, my amendments, which we will come to later, deal with that issue.

Of course resources are a factor—that has been a subject of debate throughout the whole

proceedings, from stage 1 to stage 2. That is why we have been pressing the minister throughout, and we will press her later on today. However, to resort to the kind of measure that Mr Findlay proposes, in seeking to remove section 1 to make the political point that he is trying to make, is inappropriate.

Natalie Don: I share a lot of Willie Rennie's sentiments. I am really disappointed to see many of the amendments that have been lodged today, after a lot of these issues were discussed at stage 2. I do not agree with Russell Findlay's take on a lot of these matters. The amendments in this group go against the key principle of the bill, as endorsed by Parliament at both stages 1 and 2, to ensure that all children under the age of 18 have access to age-appropriate support when in the care and justice system.

It is the case that 16 and 17-year-olds can already access the hearings system. I have spoken to secure care centres and Children's Hearings Scotland, and I speak to stakeholders regularly, and I am confident about the capacity in the system to deal with the changes that will result from the bill.

Russell Findlay's amendments go against the incorporation of the UNCRC, which states clearly that all people who are under 18 are children, and against our commitment to keeping the Promise—which I do not think that Russell Findlay mentioned—which advocates for maximising the use of the hearings system for 16 and 17-year-olds. Both those things had cross-party support, and the amendments in this group run contrary to that.

The Conservatives cannot take a pick-and-mix approach to the Promise. They had already said that they backed the Promise in full—they, along with other parties in the chamber, made that commitment to care-experienced people in Scotland. I appreciate that the member has said that he may not press or move the amendments in this group. Nonetheless, I stress that now is not the time to take a backward step and hinder the progress that Scotland has made in its approach to youth justice. Rather, we should ensure that we do what is best for Scotland's children and young people by advocating for their rights and ensuring that we get the best outcomes.

I will now consider the amendments that have been lodged. Amendments 41 and 59 to 62 intend to remove section 1 and sections 8 through 11, which will amend the statute book to provide that a child is someone under the age of 18.

Similarly, amendments 50 to 53, 71, 73, 79 and 94 all make changes that seek to retain the position whereby children are considered to be

those aged under 16 rather than those aged under 18.

Amendments 69, 70, 72, 74 to 78 and 83 again reaffirm that the Conservatives do not believe that the definition of children is all people under 18, as do amendments 90 to 92.

Amendments 93, 95 and 97 remove key explanatory wording in the long title that outlines what the bill intends to do for Scotland's children, which is to ensure that all under-18s will be under the scope of the children's hearings system, and that all under-18s are considered children in the criminal justice system.

Amendment 96 wishes to make a minor technical change to clarify what system is being referenced in the long title, but I do not think that that is necessary.

The majority of the amendments go against the entire premise of the bill, which is why I ask again that Mr Findlay does not press amendment 41 and does not move amendments 50 to 53, 59 to 62, 69 to 79, 83 and 90 to 97.

Russell Findlay: I thank the cabinet secretary for her response. I begin by disagreeing with Willie Rennie that amendment 41 was lodged to make a political point. This is about making law that works in the real world, and there are sufficient concerns.

Mr Rennie and the minister do not seem to have paid any attention to the fact that Victim Support Scotland suggested the amendment because it is so concerned about the failings that the entire system could potentially face in response to the age increase from 16 to 18. Victim Support Scotland suggested that the difficulties are so extreme that we need to go down that route.

That said, I made it clear from the outset that amendment 41 was, in all likelihood, a probing amendment. I make no apology for raising the concerns of Victim Support Scotland on behalf of crime victims in Scotland. I will not push it to a vote, but I thank the cabinet secretary. I wish to withdraw amendment 41.

Amendment 41, by agreement, withdrawn.

The Deputy Presiding Officer: I take this opportunity to say to members that we have looked into the difficulties regarding the PIN. I understand that the PIN was shared initially, albeit that some members—for other reasons—did not see it. I hope that the matter has now been resolved. I apologise for any confusion that was caused, in particular to Alexander Burnett and Màiri McAllan, who raised the issue.

After section 1

The Deputy Presiding Officer: Group 3 is on the children's hearings system—ways of working

and training. Amendment 42, in the name of Pam Duncan-Glancy, is grouped with amendments 44, 46 and 57.

Pam Duncan-Glancy: I want to be clear that, throughout the process, Scottish Labour's approach has been to secure a system that promotes and protects the rights and welfare of the children and young people who come into contact with it. In doing so, we have paid close attention to the keeping the Promise reports and Sheriff Mackie's report, which have looked in detail at the ways in which the children's hearings system could be redesigned to meet those aims.

A key recommendation that Sheriff Mackie set out in his report is that everyone who is working in the system should be equipped to work

"alongside children and their families, understanding what their rights are and how the things that have happened to them in their lives have an impact on who they are and what they do."

It is on that basis that I lodged amendment 42, which is on embedding a trauma-informed approach, and amendment 57, which is on training.

Amendment 42 sets out matters that the national convener must have regard to in training or in making arrangements for training children's hearing panel members. It places a duty on a children's hearing panel or pre-hearing panel to

"have due regard to the need to treat the child to whom the hearing relates in a way that ... takes account of the effects of trauma which the child may have experienced, and ... seeks to avoid, or minimise the risk of, exposing the child to ... any recurrence of past trauma, or ... further trauma."

Proposed new section 7A of the Children's Hearings (Scotland) Act 2011 would require the national convener to ensure that a hearing or pre-hearing panel had due regard to the need to treat the child in that way.

Members will know that the 2011 act already allows the convener to offer training to panel members but, beyond the duty to have regard to the need to provide training on how best to hear the views of the child to whom the hearing relates, the existing legislation does not set out requirements on the areas in which panel members should be trained, such as the situations and hearings that will come before the panel that are associated with the increase in the age range under the bill. Amendment 42 includes measures on that.

15:45

In keeping with the recommendation from Sheriff Mackie and the Promise that I previously highlighted, amendment 57 sets out the training that will be needed. It is crucial that we ensure that all panel members are able to recognise the age

and circumstance-specific needs of the children and young people they are working with, in order to provide appropriate and sensitive care, through training on child development; to uphold the principles of fairness, equality, rights and respect through an understanding of children's rights; to identify signs of trauma and abuse; to address safety concerns immediately; and to minimise the risk of further trauma or recurrence of trauma, through training on domestic abuse and trauma-informed practice.

Although I recognise that some panel members will have had some training in those areas, there is no legislative basis for that as it stands. Amendment 57 seeks to change that. When *Who Cares?* Scotland looked into training on trauma-informed practice at local authority level, it found that just nine councils were able to report a level of training for staff; a further 11 councils were unable to provide feedback, as they did not collect the data. That is why my amendment 57 seeks to create a duty for training that is set out clearly in legislation.

Beyond training, it is important that the system as a whole adopts a trauma-informed approach. Many of the children who come into contact with the hearings system, regardless of the grounds on which they are referred, will have had adverse childhood experiences, and the system must be designed to recognise that. I know that the Government recognises the importance of that, and I am grateful to the minister for taking the time to discuss that with me following stage 2.

Through amendment 57, I am seeking to better align the terminology with the Victims, Witnesses, and Justice Reform (Scotland) Bill, which I know has been problematic, so I hope that the amendment will receive Government support.

Before I come to a close, I will touch quickly on the other amendments in the group. Amendment 46, in Martin Whitfield's name, is on a multi-agency approach to supporting children who are involved in a criminal proceeding, which is vital to comprehensively addressing the diverse needs of children, and I urge members to support it. I will also be supporting amendment 44, in Martin Whitfield's name, on non-discrimination in the system, to ensure that the principle of equality is upheld.

I move amendment 42.

Martin Whitfield (South Scotland) (Lab): The two amendments in my name in this group deal with two different and specific matters. The first, which I imagine that we can all agree on, is to ensure that a discriminatory approach would not be exercised on the ground of a protected characteristic of a young person who came before a hearing panel or court. Amendment 44 seeks to

place non-discrimination firmly in the 2011 act so that, should an occurrence occur, a young person could have that properly investigated.

Amendment 46 is about opening up the discussion that I brought up in an earlier group of amendments about the best way to deal with young people who come before a panel or who have an interaction with the state in the wider sense, and I thank Barnardo's Scotland for its support in the matter. Using a multi-agency approach would allow for the right answer to how a young person who is in front of a panel should be dealt with. The purpose behind amendment 46 is to do exactly that—to empower the children's hearing to take a multi-agency approach so that the panel members fully and properly understand, and fully and properly support, the young person to whom the hearing relates.

With regard to the other matters under the group, I would be astounded if anyone in the chamber was not already of the view that I will be supporting my colleague Pam Duncan-Glancy on amendments 42 and 57. In particular, amendment 42 is about the importance, which we now understand, of ensuring appropriate training with regard to trauma so that we fully understand not just young people but lots of people who come before panels—although, under the bill, we are talking about young people. As for the final matter, training is fundamental for volunteers and those who sit on panels.

Roz McCall (Mid Scotland and Fife) (Con): I note that amendments 42, 44, 46 and 57 focus on trauma-informed practices. I will focus on amendments 42 and 57.

I thank Scottish Women's Aid and Victim Support Scotland for their helpful comments on the amendments. Victim Support Scotland has been very vocal in its concern and has said:

"the proposed increase in the age of referral to the Children's Hearing, will likely see an increase in cases involving gender-based violence being disposed to the system."

It believes that

"it is vital that Reporters and Children's Panel members are equipped with robust domestic abuse training to ensure preparedness to manage these cases. Domestic abuse in relationships involving young people can present in complex ways and understanding the totality of risk is vital to ensuring that a victim is adequately supported with information and safeguarding."

Scottish Women's Aid has highlighted the importance of a trauma-informed approach for all victims, including those who are the subject child of a children's hearing. The organisation supports the amendments. Conservative members echo those sentiments and recognise the importance of training and of processes that are trauma

informed. We will therefore support all the amendments in the group.

Willie Rennie: We will also support all the amendments in the group. There has been quite a creative process between the two Labour members and the Government after the discussion at stage 2. They took away the minister's criticisms of the amendments, made changes and lodged new amendments, which are worthy of support.

The bill represents a big change, as it will move the age up to 18 and bring a different cohort of young people into the system, as Roz McCall just set out. Much more substantial training will be required. It is clear that training now is patchy and inadequate and needs to change. As a Parliament, we need to have comfort that the system understands how important we regard the level of training to be, particularly with that degree of change. We need a greater emphasis on training and a more prescriptive approach to it that mentions domestic abuse, which will be key for the new cohort of young people who will come into the system.

We need consistency across the country, as well as consistency with best practice. I do not think that it is sufficient for the minister to say, "This has already been done." The Parliament needs to have comfort that it will always be done, and that it will always be done consistently across the country, which is why we support the amendments in the group.

Natalie Don: I am glad to offer my support for Pam Duncan-Glancy's amendment 42. The Scottish Government agrees that all children who are referred to a hearing should be treated in a way that is sensitive to the trauma that they may have experienced.

I understand that Martin Whitfield's amendment 44 seeks to ensure that decision makers in a children's hearing do not discriminate against the child on any of the grounds that are mentioned. As was discussed with the member at stage 2, we appreciate the intention behind the amendment but, because existing law and practice achieve what I understand the amendment seeks to do, the amendment is not necessary.

A range of statutory duties already apply to children's hearings and oblige them to protect children's rights and not unlawfully discriminate against a child. They include non-discrimination duties under the public sector equality duty in the Equality Act 2010 and the requirement under the Human Rights Act 1998 to act compatibly with ECHR rights, including article 14 on non-discrimination. That will be supplemented by the duty to act compatibly with the requirements in the United Nations Convention on the Rights of the

Child (Incorporation) (Scotland) Act 2024 when that act comes into force in July.

All those duties combine to protect children from discrimination more robustly than amendment 44 would, while still allowing the flexibility for decision makers to recognise that it may be necessary to treat children differently on the basis of, say, their age in certain circumstances. For example, it would be appropriate to share information with a child only if they were old enough to understand it.

I note that the member added a new provision to his amendment to state that it is

“without prejudice to any other enactment prohibiting discrimination”,

but I am afraid that that does not allay the legislative competence concerns that we raised at stage 2 and instead adds legal uncertainty. We remain concerned that the amendment may make provision in relation to the reserved matter of equal opportunities and may impermissibly modify the Equality Act 2010. I therefore cannot support amendment 44.

On amendment 46, the Scottish Government does not feel that it is necessary to create a legal duty on children’s hearings to promote a multi-agency approach to planning support for children. Under part 3 of the Children and Young People (Scotland) Act 2014, existing statutory measures ensure that local authorities and health boards produce children’s services plans with a view to safeguarding, supporting and promoting the wellbeing of children in their area, delivering timely support to meet their needs and delivering services in the most integrated way for children. Among others, the national convener of Children’s Hearings Scotland is to participate in or contribute to those plans, which will ensure that practitioners in the hearings system and beyond can effectively collaborate and take a multi-agency practice approach. We would not wish to undermine the shared responsibility of implementing the GIRFEC multi-agency approach at all levels of the system by imposing a new and narrow duty on children’s hearings. On that basis, I cannot support amendment 46.

Amendment 57, which is on training panel members, clearly concerns an important area. However, I set out Government concerns about such an approach at stage 2, and those concerns remain.

Pam Duncan-Glancy: The minister highlighted children’s services plans, which local authorities produce. It is fairly widely known that there are still difficulties with organisations working together in the way that is needed. However, I am not sure that I fully understand why amendment 46 would be a problem for the bill. A lot of the evidence that the committee heard and the reviews—including

reviews by The Promise Scotland, Sheriff Mackie and others—have said that joint working and multi-agency support to make this work are incredibly important. Social Work Scotland gave evidence to the committee in that respect. I am still not sure why not including the provision on training in the bill is the way that the minister wants to go.

Natalie Don: As I have laid out, there is already an expectation that practitioners will work in accordance with legislation and policy guidance and that the multi-agency approach will be adhered to. If the member believes that more work on that is needed, we can look at that, but I do not believe that the narrow scope of the amendment would improve the matter.

As I said, we support Ms Duncan-Glancy’s amendment 42, which specifies the importance of trauma training. That recognises the fact that all children who are referred to a hearing should expect to be treated in a way that is sensitive to their trauma. However, the need for further training matters to be specified in the Children’s Hearings (Scotland) Act 2011 remains unclear, and we consider that duplicate reference to trauma in those provisions would be unnecessary and confusing.

On child development, as advised at stage 2, the CHS guidance that is currently issued to panel members states:

“Panel Members are not, and should not attempt to be seen as, child development specialists.”

When a hearing needs specialist input to decide what measures to put in place for a child, it is able to call on expertise and obtain reports to assist it with that.

I reiterate that domestic abuse is one of many child welfare concerns that may come before a hearing and that it will not be a relevant consideration in all cases. Nonetheless, the impact of domestic abuse forms an important part of existing trauma training for panel members. Similarly, training on children’s rights is provided to all new panel members and is an essential part of pre-service training.

I am grateful to Ms Duncan-Glancy for her work on amendment 42, which was scoped with Government officials and key stakeholders, including the national convener, to ensure that it is operationally viable. To my knowledge, amendment 57 has not been the subject of any consultation with the national convener, to whom its duties would relate. However, as I have explained, I am confident that the comprehensive training that is provided to panel members by the national convener and Children’s Hearings Scotland covers the key aspects that are mentioned in amendment 57 and that panel

members are well equipped to deal with the most challenging cases that come before them.

I urge members to support amendment 42 and to reject amendments 44, 46 and 57, if they are moved.

The Deputy Presiding Officer: I call Pam Duncan-Glancy to wind up and to press or withdraw amendment 42.

Pam Duncan-Glancy: I will press amendment 42.

I am disappointed to have heard the Government say that the fact that training can be offered on domestic abuse, trauma and children's rights is a reason not to put the provision in a piece of legislation that is so fundamental to children's rights and so fundamentally related to trauma. As a result of the changes that the bill seeks to make, it is likely that we will see more cases that involve domestic abuse. It is therefore a real disappointment that the sort of training that people should get rather than may get is not being put above the line in the legislation, as opposed to below the line, as I would put it. I believe that various organisations, including the Children and Young People's Commissioner Scotland and Victim Support Scotland, have said that training is incredibly important in that regard.

16:00

On Martin Whitfield's amendment 46, I remain disappointed that the Government is not willing to recognise specifically in the bill the importance of multi-agency work. We need to do everything that is possible to ensure that any changes in those respects have the best chance of success. To do that, we need agencies to work together. I do not believe that we can leave that to plans at the local authority level; indeed, it is important for us to set out in legislation that there are expectations that agencies will work together. I am disappointed that the Government does not feel that it is able to support that.

Finally, I am grateful for the engagement on amendment 42, and I am grateful that the Government will support that amendment on a trauma-informed approach, because I think that it is important that the panel takes that approach.

Amendment 42 agreed to.

Amendment 43 moved—[Martin Whitfield].

The Deputy Presiding Officer: The question is, that amendment 43 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

The vote is now closed.

Pam Gosal (West Scotland) (Con): On a point of order, Deputy Presiding Officer. I would have voted yes, but I do not think that I got the connection.

The Deputy Presiding Officer: I can assure Ms Gosal that her vote was recorded.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O'Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)

Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Robertson, Angus (Edinburgh Central) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Deputy Presiding Officer: The result of the division is: For 48, Against 62, Abstentions 0.

Amendment 43 disagreed to.

Amendment 44 moved—[Martin Whitfield].

The Deputy Presiding Officer: The question is, that amendment 44 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)

Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)

Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Robertson, Angus (Edinburgh Central) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Deputy Presiding Officer: The result of the division is: For 47, Against 63, Abstentions 0.

Amendment 44 disagreed to.

Amendment 45 not moved.

Amendment 46 moved—[Martin Whitfield].

The Deputy Presiding Officer: The question is, that amendment 46 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

The vote is now closed.

The Cabinet Secretary for Social Justice (Shirley-Anne Somerville): On a point of order, Deputy Presiding Officer. I am having difficulties connecting. I would have voted no.

The Deputy Presiding Officer: Thank you, Ms Somerville. Your vote will be recorded.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)

Carson, Finlay (Galloway and West Dumfries) (Con)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O'Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellhill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)

Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Robertson, Angus (Edinburgh Central) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Deputy Presiding Officer: The result of the division is: For 47, Against 63, Abstentions 0.

Amendment 46 disagreed to.

After section 5

Amendment 47 moved—[Martin Whitfield].

The Deputy Presiding Officer: The question is, that amendment 47 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Clark, Katy (West Scotland) (Lab)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)

Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McKee, Ivan (Glasgow Provan) (SNP)

McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Deputy Presiding Officer: The result of the division is: For 43, Against 67, Abstentions 0.

Amendment 47 disagreed to.

The Deputy Presiding Officer: Group 4 is on compulsory supervision orders. Amendment 2, in the name of Roz McCall, is the only amendment in the group.

Roz McCall: Risk to the victim, and risk planning, is one of the main areas of concern with proceeding through the children's hearings system. Victim Support Scotland has consistently raised concerns throughout the bill's progression regarding the ineffectiveness of compulsory supervision orders as a safeguard for victims. Let me be clear: my amendment is about keeping some of the rights that are currently in the judicial system but which will be lost as we move forward.

In the current judicial system for 16 and 17-year-olds, any movement restriction conditions are legally binding, and those allow the victim to plan their lives and avoid contact. As the bill's policy memorandum states,

"there is no such thing as a 'breach' of an MRC".

That leads me to question the effectiveness of ever using an MRC. In effect, if we are going to apply a restriction condition to limit the whereabouts of a person or to limit the times that a person can be out in the community but there will be absolutely nothing that can be done should they refuse to comply or should they slowly erode the trust that is placed in them, we are stating that we will be powerless to adequately support victims.

Victim Support Scotland highlighted in its submission that its concerns are further compounded by the sheer lack of use of MRCs in the current process,

"resulting in a lack of information and evidence of how these can effectively restrict the movement of an offending child to protect a victim."

Amendment 2 seeks to put in a safeguarding measure that will apply only if a person does not adhere to the stipulations of an imposed compulsory supervision order. Anyone who has their movement restricted by a children's hearing who sticks to the stipulations that the panel sets will not be affected in any way. It is imperative that victims can move on from the incident in a safe, risk-free way. I urge members to support my amendment.

I move amendment 2.

Willie Rennie: I get Roz McCall's concerns, and I understand Victim Support Scotland's deep concerns, but we do not need to resort to fines in order to deal with the consequences of non-compliance.

The children's commissioner is very clear that she thinks that the member's approach is contrary to the Kilbrandon principles. It is very important that we maintain those as part of the bill. Scottish Women's Aid is equally concerned that the amendment is punitive and does not align with the bill's aspirations to strengthen children's rights. It has highlighted the importance of robust guidance on how non-compliance with MRCs will be dealt with. Therefore, we do not have to resort to fines; we have got other mechanisms.

I know that the minister is listening carefully to the deep concerns that there are in the community about the lack of terminology in relation to breach. However, we do not need to go down the route of fines in order to deal with that, so I will be voting against amendment 2.

Natalie Don: The amendment fundamentally misunderstands the children's hearings system, which is not a criminal justice system for children. The hearings system is designed to support children who are in need of compulsory measures of care. The bill does not change that. It also does not interfere with the fundamental principle that it is the Lord Advocate who is in charge of prosecution policy in Scotland.

It would be entirely inappropriate for amendment 2 to be passed, and I urge the member not to press it. A criminal sanction against a child has no place in the children's hearings system. A hearing has extensive powers, and it can take measures, such as imposing the conditions that are mentioned in the amendment, to prohibit a child from approaching someone or restricting the liberty of a child where it is necessary to do so through a movement restriction. A hearing can and will review those measures when it considers any reported non-compliance with those conditions.

Roz McCall: Will the minister accept that, because there are no consequences, it is almost not worth handing out an MRC at all? It is not a restriction.

Natalie Don: I do not accept that, and I do not accept that there are no consequences. It is not the case that no further action can be taken. Hearings have the power on review to take any new measures, including, as a last resort, measures that can deprive the child of their liberty where necessary to safeguard or promote a child's welfare. Deprivation of liberty can be authorised for up to three months before a review is required, at which time the deprivation of liberty can be continued, if that is still necessary. There is therefore no need for non-compliance to be made a criminal charge. To do that—as Willie Rennie has alluded to—would undermine the Kilbrandon principles on which the hearings system is based.

I appreciate that the member has concerns about victim support, and we will discuss that in later groups. At the moment, I urge the member not to press the amendment. If it is pressed, I urge members not to support it.

The Deputy Presiding Officer: I call Roz McCall to wind up and to press or withdraw amendment 2.

Roz McCall: There is not much more that I can add to the debate. I think that this is about balance, as I have already said. It is about making sure that compulsory supervision orders and MRCs are adhered to. I press amendment 2.

The Deputy Presiding Officer: The question is, that amendment 2 be agreed to. Are we agreed?

Members: No.

16:15

The Deputy Presiding Officer: There will be a division.

The vote is closed.

Jackie Baillie (Dumbarton) (Lab): On a point of order, Presiding Officer. I am afraid that the voting app would not connect. I would have voted no.

The Deputy Presiding Officer: Thank you, Ms Baillie. Your vote will be recorded.

For

Balfour, Jeremy (Lothian) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Dowey, Sharon (South Scotland) (Con)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)

Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hoy, Craig (South Scotland) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lumsden, Douglas (North East Scotland) (Con)
 McCall, Roz (Mid Scotland and Fife) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Clark, Katy (West Scotland) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Michael (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)

McArthur, Liam (Orkney Islands) (LD)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Minto, Jenni (Argyll and Bute) (SNP)
 Mochan, Carol (South Scotland) (Lab)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 O’Kane, Paul (West Scotland) (Lab)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitfield, Martin (South Scotland) (Lab)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Deputy Presiding Officer: The result of the division is: For 28, Against 82, Abstentions 0.

Amendment 2 disagreed to.

Section 6—Provision of information to person affected by child’s offence or behaviour

The Deputy Presiding Officer: Group 5 is titled “Children’s hearings system: victim information”. Amendment 3, in the name of Willie Rennie, is grouped with amendments 4 to 7.

Willie Rennie: I am grateful especially to Victim Support Scotland but also to Children 1st and Scottish Women’s Aid for their assistance in understanding the issues that victims face when navigating the information-sharing challenges in cases that are dealt with in the children’s hearings system. I am also grateful to Ruth Maguire, Stephanie Callaghan and Michelle Thomson, as well as Liam Kerr and Sue Webber, for supporting my successful amendment at stage 2 against the advice, at that time, of the minister. Finally, I am grateful to the minister and her excellent officials for their exploration of the issues with me and the production of these new amendments, which I think are even better than my original amendment at stage 2.

The bill and my amendments in this section and in section 6A will expand the power of the principal reporter to share information that is relevant for safety planning purposes. That sharing will be not

a one-off event but an on-going information-sharing process as events dictate. That will ensure that, broadly speaking, victims will have rights to information to support their safety planning in a way that reflects the approach in criminal proceedings but that is appropriate for the welfare-based children’s hearings system. Therefore, broadly speaking, the information-sharing rights for victims in the children’s hearings system will be similar to those in the justice system.

Bearing in mind that this change will affect all those in the children’s hearings system, not just the new cohort of 16 and 17-year-olds, it is a significant enhancement of victims’ rights. It is a big change, as the children’s hearings system has been based on the Kilbrandon principles, which put the subject child at the centre of all considerations. That remains the case, but victims will now have their rights enhanced.

The information sharing goes beyond compulsory supervision orders and movement restriction conditions and covers situations in which the information is required for safety planning purposes. The amendments expand the types of situations in which information can be shared by the principal reporter with persons who are affected by the child’s behaviour or offence.

The amendments strike the appropriate balance between disclosing enough information to victims to assist with their safety planning and respecting the rights and welfare of the referred child. They do so by ensuring that the principal reporter will still be required to make decisions about whether to share information on a case-by-case basis after considering a number of factors including, fundamentally, whether the sharing of information would be detrimental to the best interests of the referred child or any other child.

Amendments 3, 4, 6 and 7 build on the amendments that were made at stage 2 to include any interim orders that are made in respect of the referred child and to ensure that information on any variations or continuations or the termination of the measures can be shared with a person who has previously requested information without the need for that person to make additional requests for information as time goes on.

Amendment 5 will extend the information that can be shared to include

“other information necessary to assist safety planning by or in relation to the person”

who has requested the information. That is a key aspect.

Together, the amendments will assist victims who have a particular concern that can be eased by the giving of information—for example, that a child is deprived of their liberty for a period of time

or is living out of the area—or, conversely, by allowing them to make decisions on what safety planning they need when the restrictions on the child are ending or when there are no restrictions on the child whom they wish to avoid. That is an essential element for victims who may have experienced domestic abuse or antisocial behaviour caused by children in their area. People need access to information if they have to put in place measures to avoid further contact.

Victim Support Scotland has said that it is supportive of my amendments in the group but is also strongly urging the Scottish Government to follow up the legislation with “robust guidance” on how to implement the information-sharing provisions in a way that ensures that victims’ voices are heard. Victim Support Scotland says that the changes that are being implemented

“will require a significant cultural reform”

of how the children’s hearings system and the Scottish Children’s Reporter Administration uphold victims’ rights and needs.

I intend to continue working with stakeholders, including Victim Support Scotland, to make sure that the Government addresses those concerns once my amendments in this group are agreed to and if the bill is passed today.

I move amendment 3.

Roz McCall: Although we support and will vote for amendments 3 to 7, which are on information sharing and support for victims, it is important to put on record the concerns that Victim Support Scotland has raised, which Mr Rennie has alluded to. The issue goes back to risk assessment and the on-going risk for victims. The bill currently provides for that risk assessment, but that will cease to be the case when the risk assessment approach that was introduced at stage 2 is removed.

Victim Support Scotland remains concerned that

“there are too many caveats to allow the Principal Reporter to not provide information to a victim or victim support organisation.”

It goes on to say:

“Victims have continuously given feedback that they have not received any information from the Principal Reporter, despite provisions in place to provide this currently.”

It also highlights the

“significant disparity between the support the CHS can provide to victims, and what they ... receive.”

If we are to fully support everyone through the process, we need to understand how it is working, where it is falling down and how it can be rectified. I therefore urge the Government to look at some of the amendments that relate to reviews and reports

and to include information sharing with victims in the reviews to ensure that the system is properly supported.

Natalie Don: I thank Mr Rennie for his amendments, his willingness to work with the Government and his careful consideration of this important aspect of the bill.

The bill will allow all children to have the benefit of the welfare-based system, when appropriate, but at the same time it will allow proportionate and necessary information to be shared with persons who are affected by a referred child’s behaviour. My officials and I have had in-depth engagement with Victim Support Scotland on those matters, and I know that Mr Rennie and other members have done so, too.

Throughout the scrutiny of the bill, the Government has been clear about our commitment to supporting victims, especially child victims and their families, no matter which system deals with an offence case. Care must be taken to protect privacy rights and to avoid compromising the focus of the hearings system on child welfare. Crucially, children’s hearings are not criminal justice settings, and the rights of the victim must be balanced against the rights of the referred child. The amendments in the group achieve that, and I urge members to support them.

Willie Rennie: I thank Roz McCall and the minister for their comments. I reiterate that the golden principle is that information will be shared on the ground of safety planning. That must be our first and foremost consideration in relation to the provision, which goes beyond movement restriction conditions and compulsory supervision orders and covers all areas in which safety planning is a consideration.

Roz McCall is right that the take-up of information has been very low—it is in the order of 14 per cent. We need to ramp up that figure considerably, but we must do so in a way that is appropriate for the victim and the subject child. I think that my amendments strike the right balance.

I reiterate my earlier point that the bill’s provisions represent a significant advance for children of all ages—not just 16 and 17-year-olds—who are dealt with in the children’s hearings system. That allows for an equivalence, in broad terms, with those who are provided for in the criminal justice system. That is a significant development, and I am particularly pleased that we have managed to get to it. I think that we have provided the appropriate balance and a significant enhancement.

I press amendment 3.

Amendment 3 agreed to.

Amendments 4 to 7 moved—[Willie Rennie]— and agreed to.

Section 6A—Support for victims in the children’s hearings system

The Deputy Presiding Officer: Group 6 is titled “Children’s hearings system: victim support”. Amendment 8, in the name of Willie Rennie, is grouped with amendments 9 to 22, 48, 23 and 24.

Willie Rennie: I am sorry to have dragged members back from the tea room for no purpose at all. They might be able to go back again, because I hope that there will be unanimity on this group of amendments, too.

As I referred to earlier, at stage 2, the Education, Children and Young People Committee passed my amendment that inserted section 6B into the bill, in addition to the Government’s amendment that inserted section 6A. However, given that those sections overlap in some respects and conflict in others, they needed to be reconciled ahead of stage 3. Amendments 8 to 17 and 22, together with the removal of section 6B through amendment 23, do just that. Those amendments are necessary to ensure that the provisions are clear and workable in practice.

I am content that any aspects of section 6B that will not now be reflected in section 6A are not necessary, given the overall package of improved measures that are provided by my amendments in this group and the previous group.

In particular, the three-tier approach that I introduced at stage 2 will still be included but in a different format. Victims will have access to more detailed general information about the children’s hearings system, will be entitled to person-specific information, when appropriate, and will have access to other information that is necessary to assist safety planning.

My amendments in the group extend and improve the new regulation-making power in proposed new section 179D of the Children’s Hearings (Scotland) Act 2011, which is being inserted by section 6A of the bill.

16:30

Amendment 8 requires regulations under new section 179D to establish a single point of contact for persons who are entitled to request information in relation to decisions made by the principal reporter or a children’s hearing where those persons have been affected by a child’s offence or behaviour. Amendments 9, 10, 11, 13 and 16 are minor and technical amendments, which, taken together, reflect that a single point of contact will be set up.

Amendment 14 enables regulations to ensure that the information that is provided by the single point of contact to affected persons is provided in a way that is accessible to the person who receives it.

Amendment 15 allows for regulations for the sharing of information between the single point of contact and key agencies in the children’s hearings system, including local authorities who implement compulsory supervision orders, the chief constable, the principal reporter, the national convener and their associated corporate bodies, CHS and SCRA.

Amendments 12 and 22 ensure that the regulations can also provide for “relevant information” to be provided to and by the single point of contact. That includes particular information about the children’s hearing system such as details about the interaction between the children’s hearings system and the criminal justice system. It also includes information about the action that can be taken by a children’s hearing, such as the measures that can be included in a compulsory supervision order, and the process for reviewing that action.

Amendment 17 future proofs the information-sharing provisions by allowing sections 179A to 179C of the 2011 act to be modified by regulations under new section 179D, without the need for primary legislation. That would enable a move from the current opt-in information service that is provided by the SCRA to an opt-out service, if there is an evidence base to do so.

I understand that Women’s Aid is concerned that amendment 17 could have unintended consequences for victims looking to access information. Women’s Aid is right to say that pathways of information sharing between the principal reporter, support services and the victim require consultation with a range of stakeholders. It is also right to say that the development of an information-sharing service must also seek to align with existing policy and practice developments such as bairns’ hoose and the hearings system redesign work. I want to reassure Women’s Aid that amendment 17 is simply an enabling power to move to an opt-out system if the evidence supports that.

The SCRA and Victim Support Scotland are currently undertaking research to explore the reasons behind the low take-up rates of the SCRA victim information service. The amendment would also enable changes to be made in future relating to the operation of information sharing, but I expect that the new single point of contact service will allow victims to be more equipped to exercise their rights to seek information if they wish to do so.

There has been considerable concern about the very limited uptake by victims of the existing information rights, which is in the region of only 14 per cent. My amendment at stage 2 included an opt-out system whereby victims would receive information unless they objected. Although that would increase take-up rates, I accept that it could lead to information being shared with victims that may not be in their best interests. That is why the research that is being undertaken by the SCRA and Victim Support Scotland is important, and my amendment allows for an opt-out system if the evidence supports it.

I also believe that the new and meaningful information rights together with the existence of the single point of contact will improve the numbers of victims accessing such information. Those new arrangements would support people to understand their options and be supported to make the right choice for them.

Amendment 21 changes the parliamentary procedure that is applicable to regulations that are made under the new section 179D of the 2011 act so that they will be subject to the affirmative procedure rather than the negative procedure. That gives the Parliament the chance to fully debate and scrutinise the regulations and, importantly, the final say on whether they are approved.

Amendment 18 simply makes a technical change to the consultation duty in new section 179D(4) of the 2011 act to reflect the change in the procedure. It makes sure that the Scottish ministers consult with the list of consultees before laying draft regulations before the Parliament for approval.

I am satisfied that those measures, taken together with my amendments that were debated in the previous group, will bring the ability of victims in the children's hearings system to obtain relevant information and information to plan for their safety, in the event that that is required, broadly in line with what they could expect in the criminal justice system. Accordingly, amendment 23 removes section 6B, which is no longer required.

I fully support Ruth Maguire's amendment 48, which allows close scrutiny of the operation of those important measures. I am confident that the provisions assist in striking the appropriate balance between giving a victim enough information to feel supported, safe and empowered, while respecting the overall ethos of the children's hearings system and, indeed, the rights of children and young people.

I am grateful to Victim Support Scotland for supporting my amendments in the group and for emphasising the importance of the single point of

contact. However, it has also made clear that the single point of contact must provide support to all victims, regardless of their age and must uphold the rights and best interests of the persons who appear to have been harmed. Those are important issues and, as the Government develops the single point of contact, it is crucial that it addresses them.

I move amendment 8.

Natalie Don: I fully support all of Willie Rennie's amendments in the group. I want to put on the record my appreciation for his work on the amendments to ensure that we have a coherent and comprehensive system for a new single point of contact for support services to be established in relation to children's hearings. That will be funded by the Scottish Government. I consider that it will be hugely beneficial to support those who need it and will assist with the implementation of the new provisions for victims in the bill.

Similarly, I welcome Ruth Maguire's amendment 48 and thank her for lodging it. The periodic reporting duty that it provides for will allow ministers to take stock of how effectively the service is meeting the needs of victims. Throughout the progress of the bill, the Government has recognised the importance of listening and responding to the voices of those with lived experience, so I particularly welcome the provision in Ms Maguire's amendment that requires Scottish ministers to listen to the feedback of people to whom support services are provided.

I also appreciate the intention behind Ms McCall's amendment 24, but unfortunately the Scottish Government cannot support it. To be clear, I have every sympathy for any victim of any offence, whether the perpetrator is identified, whether someone is held accountable for the offence, or whether they are required as a witness in criminal proceedings or in a children's referral proof. As noted previously, the children's hearings system and the criminal justice system are very distinct systems. It is neither possible nor appropriate to import measures from one system into the other without tailoring them to the nuances of that system and the individuals who have to interact with it. There are certain elements of the proposed amendment that, given the nature and purpose of children's hearings, risk setting unrealistic expectations for victims, such as a right to effectively participate in proceedings where appropriate or to receive compensation for loss or expenses incurred during and after the proceedings. The best way to ensure that victims are informed and supported is through a support service that is tailored to their needs and delivered by qualified and experienced service providers.

I have listened carefully to the concerns that victim support organisations have raised and I have worked intensively with them and with members of the Education, Children and Young People Committee to improve the provision of support and information to victims through measures in the bill. The new bespoke single point of contact for support services will have an important role in improving the support and information that are available to victims, including advice on rights and how to exercise them. Those who provide support services will be trained and qualified to help victims. The Government has already committed to funding that new national service.

It is essential that we work jointly with the Scottish Children's Reporter Administration and victim support organisations to get the service right for those whom it will serve, and that we focus resources on the development of that service. The consultation process that will take place before the regulations that will establish the service are introduced will help us to ensure that there are no gaps in the support that is provided and that existing services are joined up.

It is also right that, once the single point of contact has been established and is operational, there is meaningful assessment and regular review of the effectiveness of the support services that are provided.

On that basis, I consider that the other amendments in this group will adequately ensure that victims' needs and interests are appropriately taken into account and addressed, so I urge members to support Willie Rennie's amendments and Ruth Maguire's amendment 48, and to reject Ms McCall's amendment 24.

Finally, I urge members to support my amendments 19 and 20, which make minor technical adjustments to the list of persons who must be consulted before regulations are introduced to establish the new single point of contact for support services for those victims who require it in relation to children's hearings proceedings.

Two of the main bodies that are currently listed are the Scottish Children's Reporter Administration and Children's Hearings Scotland. However, the consultation should actually be with those bodies' respective duty bearers—the principal reporter and the national convener—who will each play an important role in developing the regulations, together with persons who already provide support services.

Ruth Maguire: As Victim Support Scotland states in its briefing,

"Significant progress has been made around information which can be shared with victims".

I, too, am highly supportive of my committee colleague Willie Rennie's amendments on the issue and of his amendment 8, which seeks to establish a new single point of contact for support services specifically for the children's hearings system. Victims of offences or behaviour by children who are dealt with in the hearings system currently have access to limited information. During evidence sessions, the committee heard in quite stark terms about the impact that that has and the real consequences for those victims' safety, recovery and wellbeing. It is crucial that victims can access the information that they need to assist them with any safety planning requirements. The introduction of a single point of contact is therefore very welcome, and I hope that that, along with Willie Rennie's amendments in group 5, will make a meaningful difference to victims.

I thank the minister for her engagement on and support for my amendment 48, which seeks to place a duty on the Scottish ministers to report on the operation of the new service every two years, following consultation with the key agencies involved in the children's hearings system. The review will be required to assess the effectiveness of support services and to identify any steps that are needed to improve things as a result of that assessment.

Martin Whitfield: I compliment Ruth Maguire on her amendment and I hope that it will be successful. It speaks volumes that the ability to capture data from people who are proceeding through the system will be so important, particularly given the various enactments that are coming down the line. That will enable us to understand what those people's lived experience of the system is like.

Ruth Maguire: Martin Whitfield's point is very well made.

As part of the process of ensuring the delivery of a high-quality support service for victims, meaningful assessment and scrutiny of its impact on practice will be critical, as will implementation of the lessons learned. Importantly, as the minister said, the review will be informed by the views of those who run the service and those who use it.

To enable scrutiny and ensure that the rights of victims in the children's hearings system are kept in focus, a report on each review will be laid before Parliament. I am sure that colleagues across the chamber will welcome the opportunity to take part in that scrutiny and do just that.

Roz McCall: I state up front that we support all the amendments in the group. I will limit my comments to my amendment 24.

I thank Scottish Women's Aid and Victim Support Scotland for their support for amendment

24, the purpose of which is to ensure that a review is carried out of the rights of victims in the children's hearings system. I note the minister's comments, but I believe that we should be doing all that we can, and I do not think that my amendment would involve superimposing one system on another.

I echo the comment of Scottish Women's Aid that

"Too little is known about victim's experiences of the children's hearing system."

It is imperative that we look to gather a clearer picture to inform future work and service development. As per the UNCRC, a child victim must have their rights upheld, but information on that aspect is minimal at best. Amendment 24 seeks to address that disparity by requiring a review and placing on Scottish ministers a duty to

"publish a report"

reviewing

"the rights of victims in the children's hearings system."

16:45

Pam Duncan-Glancy: Scottish Labour will support the amendments in the group. We also supported the amendments in the previous group, and I add that the work that has gone in on both sections since stage 2 is important. I meant to say that while we were considering the previous group.

The amendments that I lodged at stage 2 on victim information were specifically about safety planning and use of the affirmative procedure for the setting up of a single point of contact, and I will speak to that briefly. The safety planning aspect of information sharing is crucial. That has been picked up in the provisions on the information that can be shared and I hope that the point will be strengthened again in regulations. However, given the standing concerns of victims' organisations and some children's organisations, the amendments that seek use of the affirmative procedure for the regulations are crucial, because they will allow Parliament to have oversight and ensure that victims' requests, as well as requests from other organisations, are borne out in the single point of contact. For that reason, we support the amendments in the group. In particular, we are pleased that the regulations will be subject to the affirmative procedure.

The Deputy Presiding Officer: I invite Willie Rennie to wind up and press or withdraw amendment 8.

Willie Rennie: I think that I have said enough. I press amendment 8.

Amendment 8 agreed to.

Amendments 9 to 18 moved—[Willie Rennie]—and agreed to.

Amendments 19 and 20 moved—[Natalie Don]—and agreed to.

Amendments 21 and 22 moved—[Willie Rennie]—and agreed to.

After section 6A

Amendment 48 moved—[Ruth Maguire]—and agreed to.

Section 6B—Duty to establish an information sharing system

Amendment 23 moved—[Willie Rennie]—and agreed to.

After section 6B

Amendment 24 moved—[Roz McCall].

The Deputy Presiding Officer: The question is, that amendment 24 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Clark, Katy (West Scotland) (Lab)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O'Kane, Paul (West Scotland) (Lab)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)

Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)

Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Deputy Presiding Officer: The result of the division is: For 43, Against 67, Abstentions 0.

Amendment 24 disagreed to.

The Deputy Presiding Officer: I advise members that we will have a short comfort break of 10 minutes. We will resume business shortly after 5 pm. I hope to see you all back on time.

16:50

Meeting suspended.

17:02

On resuming—

Section 6C—Publishing restrictions

The Deputy Presiding Officer: We turn to group 7, which is on publishing and reporting restrictions. Amendment 25, in the name of the minister, is grouped with amendments 49, 26, 27 and 38. I call the minister to speak to all the amendments in the group.

Natalie Don: I have lodged amendments 26 and 27 to remove the changes that affect reporting restrictions that were originally in the bill. I am, however, aware that the committee agreed at stage 2 to amended sections 12 and 13 on reporting restrictions. In recent weeks, I have been approached by members of the Scottish Parliament and representatives of the media who have expressed concerns about those sections of the bill, and I know that some members have been keen to consider amendments to remove sections 12 and 13 at stage 3.

Despite the two public consultations on the bill's proposals, it is clear from correspondence that I have received and from conversations that I have had that the full implications of those matters were not fully appreciated by stakeholders and members at stage 2.

I have always been clear that we want the legislation to be fully considered and informed by a broad range of views from people who would be affected by its provisions. In addition, the Scottish Government fully recognises the key role that having open media plays in a functioning democracy.

Given the short time that was available before stage 3 deadlines, it was impossible to allow the provisions the further in-depth engagement that they required. I have decided that the most prudent course of action is to lodge stage 3 amendments to remove the provisions from the bill

in order to enable the matters to be considered further outwith consideration of the bill. That is what amendments 25, 26, 27 and 38 seek to do.

However, I have also been profoundly struck by the distress and adverse consequences that can be experienced by accused persons and their families, and by witnesses and victims of crime and their families, as a result of press and social media coverage. It is important that we get this right. I am committed to ensuring that we build a robust body of evidence in order to inform any future legislation on these matters.

I will work with those who would be impacted by developments to consider how best to ensure that all issues that arise in respect of press coverage are covered, and I will write to the committee with an update on that work in the coming months.

On Mr Whitfield's amendment 49, I do not believe that it is necessary, in relation to the Scottish ministers' existing power under section 182(4) of the Children's Hearings (Scotland) Act 2011, to dispense with or relax children's hearings publishing restrictions in the interests of justice.

Section 182(4) will be used only in emergency situations in which there is a need for a media alert to find a child because of concerns for their welfare. The children's hearing system can already contact Scottish ministers to advise of situations in which that power might be required, without the need for a further power. I ask the member not to move amendment 49.

I move amendment 25

Martin Whitfield: I welcome the approach that the minister has taken, because all those who have been involved in any way with the discussion about publishing and reporting restrictions—I will use those terms to cover as much as possible—can only be absolutely aware of the pain, discomfort and anguish that have been occasioned. I reassure the minister and the Parliament that the purpose of my amendment 49 was to allow me to offer input on the matter because, at the time of drafting and lodging the amendment, I was unsure what the approach was going to be. I take the opportunity to thank those who assisted with what was an incredibly difficult amendment to draft, given that power over publishing restrictions rests with ministers, which might come as a surprise to some people inside and outside the chamber.

I ask the minister—either in an intervention or when winding up—to deal with a couple of matters. The first is the letter of 28 March 2024 that was sent to the convener of the Education, Children and Young People Committee, much of which has been articulated in the minister's response. In particular, I draw attention to the surprise that seems to have been occasioned by

the nature of the amendments and changes that were proposed. If the Government was aware of that surprise, it should have made more of the substantial changes that were being proposed, rather than relying on people outside Parliament to discover the issue. I compliment the work of victims and those who advocate on their behalf in raising the matter. It came very late in the day and I think that it is unfair that it seems that the letter indicates that stakeholders and members were at fault.

The other challenge is where and how the issue will be rectified, because that will require legislation. The Victims, Witnesses, and Justice Reform (Scotland) Bill passed stage 1 yesterday. That bill could be a vehicle, but for the fact that there has not been sufficient public consultation on it for the Government to be able to articulate what its answer is on the issue. If it will not happen in that bill, does the minister have legislation in mind that could solve the problem before the end of this session of Parliament?

My second point relates to the round table, which was incredibly welcome at the time. It was interesting that the minister spoke about continuing to write to the Education, Children and Young People Committee about its work on the matter. No Opposition education spokespeople were invited to attend the round table. One of the reasons why the matter has cut so deep and has caused so much anguish is that there is, among people who work extensively with children, an understanding of the challenge that those sorts of events pose for families. There has to be an acceptance that there is valuable input available—

Ruth Maguire: I am interested in what Martin Whitfield has said about education spokespeople not being at the round table. He is right that there were a lot of justice spokespeople there. Would he agree with me that, on an issue that is as difficult as this, we need people who will champion children? It is difficult to do it, but we need to remain laser focused on children.

Martin Whitfield: I absolutely welcome that intervention. I could not agree more and the point was very articulately put. The issue specifically affects young people and their families. The circumstances are incredibly difficult, which is why I welcome the sensitive approach that the minister has taken.

However, I would like a reassurance from the Government about how—if the matter passes to legislation that will sit with the justice portfolio—the experiences inside and outside this chamber in relation to young people, which we have just heard about, will be given the right level of importance. In that regard, I note which cabinet secretaries are sitting next to the minister.

It is not a “Got you!” question. This is too important a matter to make a mistake on, and it will need primary legislation and proper work. It will absolutely need the involvement of young people and their families. I would welcome some answers and comments on that—in so far as the minister is able to comment today.

Roz McCall: We are happy to support all the amendments in the group, which concerns reporting restrictions. The group includes amendments that will remove sections 12 and 13 from the bill entirely. The positions of various members and stakeholders were well articulated at stage 2, and pertinent points were raised by my colleague Liam Kerr and by Willie Rennie, so I will not labour the point too much.

I think that it was my colleague Liam Kerr who suggested that a possible solution might be to remove sections 12 and 13, have a round-table meeting and bring back provisions in a formal format. I echo Martin Whitfield’s and Ms Maguire’s comments about the fact that children’s voices should be loud and clear in that process.

We appreciate the Scottish Government’s acceptance of the concerns of the Scottish Conservatives and other parties and stakeholders. I repeat that we will support the removal of sections 12 and 13.

Willie Rennie: We will support the minister’s amendments, but we are not happy about it. The minister’s amendments in this group represent an abrupt change at stage 3. I understand the reasons—I have read the minister’s letter and I get the arguments that are being made. However, it is concerning that it has taken until this stage for the issues to be resolved, and the amendments leave unresolved issues, as well.

The children’s commissioner has made it clear that she cannot support the amendment and Victim Support Scotland has expressed its concern. The sections of the bill that the minister seeks to remove deal with important human rights protections, which concern children—including subject children—victims and witnesses.

Similar to the point that Martin Whitfield raised, I am concerned—because legislative opportunities are very rare—that those matters will drift for some time and that the impetus that has been created by the legislative process will be lost. Therefore, we need some timescales. I know that the minister is normally reluctant to give timescales, but, if for nothing else, we need timescales in order that the Parliament can hold itself to account to deliver that.

I would like to know what the legislative vehicle could be, how long the process will take and what consultative process will be involved to ensure that children are at the heart of the process, as other

members have said, so that it is not only a justice process but an education process. Therefore, we will support the amendments in the group, if a bit reluctantly.

Liam Kerr (North East Scotland) (Con): I rise to speak in support of Government amendments 26 and 27, which remove from the bill sections 12 and 13, covering directions on the reporting of suspected offences and proceedings.

At stage 2, I specifically suggested that those sections were

“overbroad, unworkable and a serious restriction on media freedoms.”—[*Official Report, Education, Children and Young People Committee*, 7 February 2024; c33.]

I flagged the fact that, as a result, they might be non-compliant with the ECHR and thus potentially put the operation of any final act at risk.

A number of stakeholders also raised that issue in great detail with the minister but, following stage 2, the provisions remained. To the minister’s credit, she engaged with me and other stakeholders following stage 2, before acknowledging in a letter to the committee that the sections need “further in-depth engagement” as the matters that we raised

“were not fully appreciated by stakeholders and Members”.

Indeed, they were not. I specifically asked the minister at stage 2:

“Does the minister have any concerns that the amendments could restrict press freedom?”

To which she replied:

“No ... If there was any danger of that being the case, I would not be taking forward the amendments in their current form. So, no, I do not have any such concerns.”—[*Official Report, Education, Children and Young People Committee*, 24 January 2024; c59.]

She also went on to tell me in a direct answer to my question that she had specific legal advice on each of the bill’s provisions that helped her to arrive at those conclusions.

Having latterly recognised the issues and seeking to amend them out, I understand that there might be a possibility of modified provisions reappearing in another bill. At stage 2, I proposed exactly that as a solution, to give the Parliament an opportunity for full scrutiny.

17:15

I am delighted that the force of my arguments eventually cut through, but, leaving aside for another time more general considerations about legislative scrutiny, it is important to flag that issue and history to the Parliament so that, if such provisions reappear before a future committee in a bill, members are alive to—and, this time, fully appreciate—they and perhaps ask to see the

legal advice, in order that we do not find ourselves in this situation again.

The right decision has been reached by the minister, and we will vote for amendments 26 and 27, but I find it very concerning that it took until stage 3 to get to this point.

Natalie Don: I will briefly respond to a couple of the points that have been raised in this debate. To a certain extent, I agree with Martin Whitfield's comments about how more could have been done at an earlier point. Perhaps more could have been done to flag that to stakeholders prior to this point, but I do not agree that it should always be on the Government's back to flag those things.

In relation to Liam Kerr's comments, at stage 2, I had not had interactions with the press around the amendments or had their concerns brought to me.

On other avenues, a year 5 bill could be an avenue for this aspect. I am sorry that I am not able to confirm that at this point but, of course, I will keep the Parliament updated on it. Members should remember that other legislative changes in the space will be required—for example, the children's hearings redesign, which will happen.

I will take members' views or suggestions on the process for this. I want to be very clear that young people should absolutely be at the core of the work, because we need to understand the impact that it has on our young people.

Although it might be for different reasons, we are all in agreement, and we will move forward with this work.

Amendment 25 agreed to.

After section 6C

Amendment 49 not moved.

Section 7—Supervision or guidance post-18

Amendments 50 to 53 not moved.

After section 7

Amendment 57 moved—[Pam Duncan-Glancy].

The Deputy Presiding Officer: The question is, that amendment 57 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)

Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O'Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)

Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Robertson, Angus (Edinburgh Central) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Deputy Presiding Officer: The result of the division is: For 48, Against 63, Abstentions 0.

Amendment 57 disagreed to.

The Deputy Presiding Officer: Group 8 is on the children's hearings system: victims' views. Amendment 58, in the name of Martin Whitfield, is grouped with amendment 68.

Martin Whitfield: This section deals with children's hearings, particularly from the victims' point of view. The purpose of amendment 58 is to give the Government the opportunity to allow for the views of the victim to be added to the existing provisions about the rules of procedure of children's hearings. The provision would not require the Scottish ministers to do so, but it would allow that opportunity. As we have heard in relation to earlier amendments that have been successful, where it is right to do so, there should be an opportunity for the victims' views to be heard.

The procedures that exist in the children's hearings system are challenging for any young person to be involved in, but for the young person who has been the victim of events, it can be doubly hard, because they can feel alone and stuck at the side. As I articulated in relation to earlier amendments, the system needs to be

tailored towards listening to and understanding the young people who come in front of it, because their needs, expectations and ways of communicating successfully are different from those of adults.

My amendment would allow the Government an opportunity to encompass that and, where appropriate, to allow for the victim's views to be given to the children's hearing so that they can form part of the evidence that is used in the decisions that are made, which affect not only the young person who has been brought before the children's hearing but those who surround it, such as the victim.

I move amendment 58.

Russell Findlay: A lack of transparency in the justice system and poor communication with victims are recurring themes. Increasingly, serious criminal cases are being referred to the children's hearings system, and the number will inevitably continue to increase by raising the age from 16 to 18.

No one wants to unduly criminalise young people, but it would be irresponsible to overlook the rights, interests and welfare of victims, who are very often also young people. I have spoken to victims of all ages who have suffered great distress when they discovered that the young person who committed a crime against them would not go to court.

The bill will remove existing rights that some victims are already entitled to. Specifically, those who are harmed by 16 and 17-year-olds will no longer have certain rights that they would have had if the case had gone to a criminal court. That is where my amendment 68 is relevant. It will give victims a voice.

My colleague Liam Kerr spoke to my amendment 206 at stage 2. It sought to do something similar but was unsuccessful in large part due to legal technicalities. In short, I had tried to use victim impact statements as a vehicle, but they are not transferable from a court to a children's hearings context. Amendment 68 would instead allow victims to make a personal statement to the children's hearings panel. The principal reporter would be required to provide any victim with the opportunity to make a statement explaining how the offence has affected them.

If the Government is intent on effectively downgrading some crimes by diverting them from courts to children's hearings, it must pay heed to victims.

A victim's suffering is not in any way lessened because someone in the system decides that the perpetrator is too young to face criminal justice consequence.

Yesterday, we had the stage 1 debate on the Government's Victims, Witnesses, and Justice Reform (Scotland) Bill. Much of that legislation is about improving the experience of victims and witnesses. Victims cannot be forgotten in the legislation that we are discussing today.

Amendment 68 is supported by Victim Support Scotland, which has said:

"We believe this amendment is vital to ensuring the gravity of the offence is understood and would ensure"

that crime

"victims have a voice in decisions which will significantly impact them. This would be in line with availability of victim impact statements ... in the criminal justice system."

My previous stage 2 amendment on the issue won support from Labour and, indeed, from Willie Rennie of the Lib Dems. One Scottish National Party member even abstained. I sincerely hope that they—and, indeed, the minister—will be persuaded by this new and improved attempt to allow victims to be heard.

We support Martin Whitfield's amendment 58, which is similar in intent to our amendment. However, I believe that ours is a little bit more detailed on how it can be achieved.

I also want to quickly address a point that Scottish Women's Aid made in its briefing document. It says that it does not support my amendment, although it supports the intention behind it. However, on reading its submission, I am not entirely sure whether it has particularly understood that the amendment is about victims of all ages and not exclusively about victims who are also children.

Willie Rennie: I wish that Russell Findlay would not use the loaded language that he does on some occasions. He mentioned "downgrading some crimes". That is not the intention behind the bill. However, I recognise Victim Support Scotland's arguments in support of his amendment 68 on allowing victims to make a personal statement.

Russell Findlay: I am not going to apologise for my use of language. This week, I was speaking to the family of a young man who was the subject of the most horrific homophobic attack. The case is being directed towards the children's panel. That family and that child firmly believe that it has been downgraded—that is the reality out there on the streets.

Willie Rennie: I would just say that Mr Findlay does not have a monopoly on caring for people who are victims. It is important that we get this right to ensure that we do not have repeat offences in future.

The Children and Young People's Commissioner Scotland is clear that such a measure risks creating an expectation from victims that the statement would influence the decision of the panel, which simply cannot be done within the Kilbrandon principles.

Scottish Women's Aid, to which Russell Findlay has already referred, also has reservations about whether the statement would fit in with the hearings system. It supports developing a child-friendly, trauma-informed approach that reflects the bairns' hoose model. We need an approach that ensures that child victims do not need to retell their story multiple times to multiple professionals, and one that considers the age and stage of the children who are involved. Therefore, we cannot support amendment 68.

Michelle Thomson (Falkirk East) (SNP): I make clear that my understanding—I have read quite extensively about the issue—is that the amendment is about providing the opportunity to make a personal statement; it is not about making it an obligation to do so. Mr Rennie makes an absolutely fair point about the retraumatisation of retelling a story, but if that is what a victim wishes to do and feels very strongly about doing, the amendment would provide the opportunity, not the obligation, to do it.

Willie Rennie: That is why I support amendment 58. It would create the provision for views and concerns to be expressed through the system, rather than replicating a provision that is already in the criminal justice system around victim impact statements, which I do not think are appropriate given the Kilbrandon principles. I accept the member's point, but I think that there is a better way of doing it, through Martin Whitfield's approach, which is about ensuring that procedural rules can be developed to allow for those views and impacts to be reflected in the system, which I think probably reflects practice within the current arrangements. That is why I support amendment 58 but not amendment 68.

17:30

Natalie Don: The amendments appear to place victim impact-type measures directly into decision making in the children's hearings system. To do so would be potentially retraumatising and misleading for victims. In addition, the amendments fundamentally misconstrue the hearings system's welfare-based approach and the focus of its decision making.

Again, I am quite disappointed by Russell Findlay's tone. I do not agree that we are downgrading crimes by referring to the children's hearings system. We must remember that the Lord Advocate retains responsibility and

independence for prosecutorial decisions. Any child who is referred to a hearing on offence grounds will have been diverted to the reporter following a joint referral discussion in line with the Lord Advocate's guidelines and prosecution policy. There will, therefore, already have been independent professional consideration of whether the child's offending merits a prosecutorial or welfare-based approach.

Similarly, a court will not remit a case to a children's hearing for disposal where a criminal justice sanction, rather than a welfare-based disposal, is the most appropriate. Given the application of the welfare approach in this context, it would not normally be appropriate to veer back towards a criminal justice system approach, as proposed by the amendments.

A hearing should not routinely be required to gather the views of victims, nor to take their views into account in making its decisions. The hearing's focus must be through the lens of considering what compulsory measures are necessary to safeguard and promote the referred child's welfare, except when it comes to very clear and limited public safety requirements, which enable it to include any measure necessary to prevent the child from causing any further harm to others.

Under procedural rules, it is already open to the hearing to require the reporter to obtain any report from any person that the children's hearing considers to be relevant to any matter that the hearing will determine. The decision on the necessity of such a report is best left with the independent tribunal in individual cases. In prosecuted offence cases, where a person has been given the opportunity to give a witness statement, the court will already have access to that in making its earlier decision on whether to remit the case to a hearing for a disposal.

Changing the ethos of the hearings system in the manner proposed by amendments 58 and 68 would introduce incoherence and unfairness. It would not be fair to victims to indicate to them that they could expect to influence a hearing's response to a child so that it is more intrusive or retributive, because that would not happen. Imposing further expectations on victims and potentially reintroducing trauma for them would require strong justification. As I have explained, I find no such justification here.

In addition, it would be difficult in practice in the context of a children's hearing to seek the views of a victim without causing delay to the progress of the child's case. That would take the focus away from making swift decisions to safeguard and promote the welfare of the referred child and to promote public safety.

With regard to amendment 68, in the same way, it would not be appropriate for the principal reporter to be required to give a victim the opportunity to provide a personal statement where a child's case has been remitted by the court for disposal, because the statement would not be relevant to the hearing's decision. In exceptional cases, where a hearing may decide that further information, including from a victim, is needed in the form of a report—

Russell Findlay: Will the minister give way?

Natalie Don: I will take the intervention.

Russell Findlay: Just so that I understand it correctly, is the minister saying that it would not be relevant to hear from a crime victim in that context?

Natalie Don: If Mr Findlay had let me finish, he would have heard me say that, in exceptional cases, where a hearing may decide that further information, including from the victim, is needed in the form of a report, the hearing can already secure that. Wholesale prescription of that approach would be inappropriate. The Government cannot, therefore, accept the amendments.

The Deputy Presiding Officer: I call Martin Whitfield to wind up and to press or withdraw amendment 58.

Martin Whitfield: I am slightly disappointed by the Government's approach, because amendment 58 does not introduce a requirement. It allows for the provision of views, which is something that the minister has articulated can happen if, internally within the panel, they are sought. The amendment would put that into guidance, so that there would be reassurance, not just across Parliament but across Scotland, that there is not a postcode lottery in relation to children's hearings, but that there is a basic formula in the system that people can rely on. They can look to it to ensure that they understand what is happening.

Under the circumstances, I press amendment 58.

The Deputy Presiding Officer (Liam McArthur): The question is, that amendment 58 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. Members should cast their votes now.

The vote is closed.

Shirley-Anne Somerville: On a point of order, Presiding Officer. I could not connect. I would have voted no.

The Deputy Presiding Officer: Thank you, Ms Somerville. I will make sure that that is recorded.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O'Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)

Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Robertson, Angus (Edinburgh Central) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Deputy Presiding Officer: The result of the division is: For 48, Against 64, Abstentions 0.

Amendment 58 disagreed to.

The Deputy Presiding Officer: Group 9 is on legal aid. Amendment 54, in the name of Pam Duncan-Glancy, is grouped with amendments 55 and 56.

Pam Duncan-Glancy: As I have set out already, Scottish Labour paid close attention to the recommendations of various reviews while forming our approach to the bill. Those included the review by Sheriff Mackie, which highlighted the importance of children being fully informed of their right to legal representation and the need to revisit how the right to legal support is upheld. I am supportive of both those things and seek to move towards them via amendments 54 to 56.

Children who are entangled in the children's hearings system may come from diverse socioeconomic backgrounds or difficult family circumstances. Legal aid levels the playing field by addressing inherent inequalities and ensuring that every child has the means to present their case effectively and comprehensively and understands fully the processes that they are involved in. That inclusivity is aligned with the principles of justice and fairness that underpin the legal system and the children's justice system.

Many people, including the children's commissioner, have consistently called for the extension of legal aid to include children who are referred to a hearing in all circumstances. The United Nations Committee on the Rights of the Child has made several recommendations to that effect, most recently in its 2023 concluding observations. That is why I lodged amendments at stage 2 that would have meant that any child who is referred to a hearing, including those who are referred on welfare grounds, would be entitled to automatic legal aid. However, the Government stated that it was unwilling to broaden the scope of automatic entitlement to that extent, so I believed it likely that returning the same amendments at stage 3 would fail to gather the necessary support.

I remain of the view, however, that, to protect the rights of children and young people, it is absolutely essential that any child who could either be found guilty of an offence or admit guilt to an offence should have the right to legal aid, given the potential impact on their life. Even in the event that such a conviction will cease to be disclosed in the future, it would remain on internal police systems and be subject to advanced disclosure checks. I believe that, without amendment, the bill will fall short of compliance with the UN Convention on the Rights of the Child on the issue of legal aid, and that automatic access is the only way to meet the procedural requirements of article 40 and ensure that all children have access to effective legal representation free of charge.

The notification method that is currently used is not meeting that duty and cannot be improved to meet it. Currently, only 25 per cent of children who have been referred to a children's hearing on offence grounds have a solicitor. That is in stark contrast to the figures that the minister mentioned during stage 2, which relate to the number of children who apply for and are granted legal aid. Although the number of children who apply for and are granted legal aid is high, it is related to those children who had the knowledge that they could instruct a solicitor. Ninety-nine per cent of applications might be granted, but if only 25 per cent of children know that they can instruct a solicitor, the duty under article 40 is not met.

Amendment 55, in my name, therefore calls for legal aid to be automatically available for all children who are referred on an offence ground, by means of that entitlement being made clear in the bill.

Amendment 56 seeks to do the same, but it would allow the Government to introduce that entitlement via regulations, as section 28C(3) of the Legal Aid (Scotland) Act 1986 provides for. The Government has given previous reassurance that it intends to introduce such regulations, but I believe that an issue of such importance cannot be left to good faith, so I would like the commitment to be secured in the bill or the bill to include support for that regulatory power.

Members will note that my amendment 54 is slightly narrower, in that it would make provision for legal aid to be automatically available only to any child who was reported to both the Crown Office and Procurator Fiscal Service and the children's hearings system. I do not believe that that amendment is wide enough to fully comply with children's rights. However, in the event that members feel that they are unable to support the other amendments in the group, I make a plea that they support amendment 54 to ensure that at least children who face the possibility of being found guilty of, or admitting guilt to, a severe charge—which, in turn, is likely to have more serious and obvious consequences for the rest of their lives—have access to legal aid, with the system upholding the principles of fairness and equality for them as a result.

I move amendment 54.

Roz McCall: I just want to put a small note on the record. The Conservatives are minded to support the amendments in the group. People who require legal assistance should be able to access it, so we are happy to support the amendments, which relate to support offered in the form of legal aid.

Willie Rennie: The Liberal Democrats will support Pam Duncan-Glancy's amendments in the group. I am grateful for the detailed work that she has done on the issue. She explored the matter at stage 2, when the minister presented some challenges, but she did not really address the crucial point that was raised by Pam Duncan-Glancy and Ruth Maguire: as the Children and Young People's Commissioner Scotland has said, some children have not understood that accepting a referral on offence grounds results in a conviction on their PVG—protecting vulnerable groups—record. The commissioner has also made it clear that an extension of legal aid to children in all circumstances is needed, and that point has been included in the recommendations of the UN Committee on the Rights of the Child.

Therefore, there is clearly an issue that needs to be solved, and I have not heard enough from the Government to convince me that the right measures are in place. Given the lack of such measures, I will support Pam Duncan-Glancy's amendments in the group.

Natalie Don: Some of the amendments in the group would make children's legal aid automatically available to a child who was subject to children's hearings proceedings in any case in which proceedings were arranged on the ground that the child had committed an offence. I do not consider that that is necessary, as I set out in response to similar amendments at stage 2.

I am very grateful for recent discussions with Ms Duncan-Glancy in which we discussed concerns about cases in which disclosure in later life might have an adverse impact. We also noted the pending action to mitigate that, under the Disclosure (Scotland) Act 2020, when the independent reviewer provisions come into force. In addition, the current law enables us to introduce regulations to amend the Legal Aid (Scotland) Act 1986 to deliver reform in an appropriate way, without the need for amendments to the bill.

The Scottish Government considers that the amendments in the group are not necessary, as it has regard to existing proportionate provision for assistance for children in such circumstances. Regardless of the automatic availability of children's legal aid, a child is entitled to advice and any preliminary assistance that they require in relation to a referral to a children's hearing, although I know that members have raised concerns about access to that, which I will address later in my remarks.

For representation at a hearing, assistance by way of representation—ABWOR—is already available for every child who is subject to such a hearing, including those arising as a result of an offence, subject to an application to the Scottish Legal Aid Board, commonly known as SLAB, that addresses a means and a merits test.

A child's social worker or advocacy worker can assist the child in contacting a solicitor to make an application for ABWOR. Under our national scheme that was introduced in 2020, every child who is referred to a hearing already has a right to advocacy support. In turn, those advocacy workers also have access to independent legal expertise when required.

Pam Duncan-Glancy: On that specific point, members will understand that there is a difference between legal aid through a solicitor and advocacy. How would the minister address the points made by Clan Childlaw in its briefing that only 25 per cent of children who have been referred to a children's hearing on offence grounds

have a solicitor and that the notification method that is currently used cannot be improved to meet that duty?

17:45

Natalie Don: Work on that issue is on-going. I will get on to that, if the member is happy with that. It is in my notes.

Children's hearings adopt a welfarist approach that aims to be non-adversarial. Although a children's hearing takes legally binding decisions, it is not an appropriate forum for detailed legal argument. A children's hearing should be a conversation, not a confrontation, and we should be mindful of the need to minimise the number of adult professionals in that system.

A hearing's focus is to safeguard and promote the welfare of the child referred. That is the paramount consideration. In most cases, it is not expected nor desirable that publicly funded legal representation should be automatic. The availability of ABWOR for all children who are subject to proceedings, which ensures that relevant legal arguments can be put forward on their behalf, is considered to be appropriate.

I appreciate that amendment 54 would add a more limited provision that that would happen only in certain cases where

"the offence that the child has committed is one that a constable is required ... to jointly report to the Principal Reporter and the Crown Office and Procurator Fiscal Service".

That can be dealt with by way of regulations. That would allow the regulations to be drafted to take into account any changes to the Lord Advocate's guidelines, the Disclosure (Scotland) Act 2020 and any other relevant issues. Once the structures of the new system are in place, the Scottish Government would be happy to give consideration to whether secondary legislation is necessary to ensure that appropriate legal assistance is still available. My preference would be to work with Ms Duncan-Glancy on that issue in the months to come.

Amendment 55, which would amend the Legal Aid (Scotland) Act 1986 to make children's legal aid available in all cases in which a child is referred on the ground of having committed an offence, is therefore considered unnecessary.

Finally, I do not consider amendment 56, which would require the Scottish Government to bring forward secondary legislation with the same effect as amendment 55, to be necessary, for the same reasons that I have just described. Again, if, as the new system is implemented, there are reasons to doubt that assessment, ministers have legislative options available under the section of the Legal

Aid (Scotland) Act 1986 that is cited in the amendment to amend the primary legislation.

Ruth Maguire: I totally understand the complexity of all this. Will the minister say a bit more about the specific problem that we identified in relation to children accepting offence grounds and that appearing on their record in later life? That is the nub of the issue for many of us.

Natalie Don: As I said, there is pending action in relation to the 2020 act, and reconsidering the suitability of the legal assistance that is available to children in the hearings system is already part of wider on-going work. The "Hearings for Children" redesign report recommended further exploration of the mechanisms for children to access legal aid. I know that that concern has been raised by members.

Those issues will not only be subject to public consultation this summer, but non-legislative aspects will be overseen by the children's hearings redesign board in the course of 2024. It would be odd to make that change now only to revisit it again in the coming weeks as part of the hearings redesign process, and only consult on it after its introduction here.

Significant further work with social workers, local authorities, the SLAB and wider legal professions representatives, including the Law Society of Scotland, is required. That work will allow us to keep under review our current assessment about the appropriateness of existing arrangements.

I therefore urge the member not to press amendments 54, 55 and 56, and if they are pressed, I urge members to reject them.

Pam Duncan-Glancy: I thank the minister for her contribution. I am struggling, to be honest, because between stages 2 and 3 we had lengthy conversations about the sorts of regulation that could be taken forward. That is why the specific amendment is drafted in the way that it is. I get the sense that the minister is saying that that regulation is no longer necessary.

In relation to offence grounds not being on a disclosure, I take the point about what will appear in future. However, as I raised with the minister between stages 2 and 3, and as I said on the record a moment ago, it is not just about what appears on disclosures. It is also about the cumulative information that would appear on someone's police check. If that comes up, it could have a significant impact on children and young people's lives as they grow into adulthood.

It is important for members to remember that the increase in age will come with a difference in profile, and I think that most members accept that. It is incredibly important that all the children in the system and all the people going through it have

access to legal aid, specifically on the basis of an automatic right to legal aid, which is why I lodged the amendments.

I also said that it would be important to put that in the bill. I am a bit disappointed that the minister says that there could be an opportunity for the Government to implement the requirement in subordinate legislation when we have the opportunity to do it now with the bill that is in front of us. If the minister is concerned about other things that might happen or that need to happen first, I suggest that the committee highlighted the sequencing of the bill, so that could have been addressed. A number of members and witnesses indicated that certain sequences would have to happen in order for this to be done properly.

I ask others to support my amendments on that basis, because this is one of the things that should be done before there are any changes to the system.

The Deputy Presiding Officer: The question is, that amendment 54 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

The vote is closed.

Tim Eagle (Highlands and Islands) (Con): On a point of order, Presiding Officer. I could not connect; I would have voted yes.

The Deputy Presiding Officer: Thank you, Mr Eagle. We will make sure that that is recorded.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)

McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Robertson, Angus (Edinburgh Central) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Deputy Presiding Officer: The result of the division is: For 46, Against 64, Abstentions 0.

Amendment 54 disagreed to.

Amendment 55 moved—[Pam Duncan-Glancy].

The Deputy Presiding Officer: The question is, that amendment 55 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)

Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Robertson, Angus (Edinburgh Central) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)

Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Deputy Presiding Officer: The result of the division is: For 47, Against 65, Abstentions 0.

Amendment 55 disagreed to.

Amendment 56 moved—[Pam Duncan-Glancy].

The Deputy Presiding Officer: The question is, that amendment 56 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O'Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)

Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Robertson, Angus (Edinburgh Central) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Deputy Presiding Officer: The result of the division is: For 46, Against 65, Abstentions 0.

Amendment 56 disagreed to.

Section 8—Meaning of “child”

Amendment 59 not moved.

Section 9—Offences against children to which special provisions apply

Amendment 60 not moved.

Section 10—Prosecution of children over age of criminal responsibility

Amendment 61 not moved.

Section 11—Custody of children before commencement of proceedings

Amendment 62 not moved.

Section 12—Restriction on report of suspected offences involving children

Amendment 26 moved—[Natalie Don]—and agreed to.

Section 13—Restriction on report of proceedings involving children

Amendment 27 moved—[Natalie Don]—and agreed to.

Section 14—Steps to safeguard welfare and safety of children in criminal proceedings

Amendment 63 not moved.

Amendment 64 moved—[Martin Whitfield].

The Deputy Presiding Officer: The question is, that amendment 64 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)

Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)

Robertson, Angus (Edinburgh Central) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Deputy Presiding Officer: The result of the division is: For 47, Against 62, Abstentions 0.

Amendment 64 disagreed to.

Amendment 65 moved—[Martin Whitfield].

The Deputy Presiding Officer: The question is, that amendment 65 be agreed to. Are we agreed?

Members: No.

18:00

The Deputy Presiding Officer: There will be a division.

There was a delay in opening the vote; it should now be open.

Are there any signs?

Members: Yes.

The Deputy Presiding Officer: Good things come to those who wait.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)

McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Robertson, Angus (Edinburgh Central) (SNP)

Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Deputy Presiding Officer: The result of the division is: For 47, Against 65, Abstentions 0.

Amendment 65 disagreed to.

Amendment 66 moved—[Martin Whitfield].

The Deputy Presiding Officer: The question is, that amendment 66 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowe, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)

Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Robertson, Angus (Edinburgh Central) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)

Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Deputy Presiding Officer: The result of the division is: For 46, Against 65, Abstentions 0.

Amendment 66 disagreed to.

Amendment 67 not moved.

Section 15—Referral or remit to Principal Reporter of children guilty of offences

Amendment 68 not moved.

Section 16—Remand and committal of children before trial or sentence

Amendments 69 and 70 not moved.

Section 17—Detention of children on conviction

Amendments 71 to 79 not moved.

After section 21

The Deputy Presiding Officer: Group 10 is on reporting requirements and information collection. Amendment 80, in the name of Martin Whitfield, is grouped with amendments 81, 85 and 86.

Martin Whitfield: We now move to a section that has been hinted at, pointed at and signposted towards throughout this afternoon. It relates to the information that should and could be collected—and which, in a number of these amendments, I suggest that it is the Scottish Government's responsibility to ensure is collected—to allow us to make assessments of how well the system is working and the experience of the children and young people travelling through it, irrespective of why they have been referred. If we have that information, we can with forthcoming legislation—not least the redesign bill and the Promise bill that in all likelihood will come to us in the very near future—use objective evidence to look at the experience of those who interface with these systems.

Amendment 80 will require the Government to carry out and report on a review of initiatives that support the referral to the restorative justice system of children alleged to have committed offences, while amendment 81 will require it to report on the use of alternatives to detention for children convicted of an offence and on the support that those children received for their rehabilitation and reintegration. Amendment 85 will require the Government to review the information required to be collected to monitor the operation and impact of the legislation and to consider the outcome and characteristics of the children who have been referred to hearings and, indeed, convicted of offences. Finally, amendment 86 will require the Government to publish a report on the

outcome of children referred to children's hearings who have been convicted of an offence, including information on their characteristics, the provision of social work services to those children, the number referred on offence grounds, the number convicted of an offence who go on to reoffend and the outcome for those on compulsory supervision orders with movement restriction conditions and those with CSOs who are referred to secure care.

The reason for the amendments is that it is incredibly challenging to bring together the existing objective data. At the moment, it sits in a number of different areas, and nobody has the responsibility to bring it all together and make it available to enable us not only to monitor the success of the changes proposed in this bill, but to provide us with the objective evidence that is genuinely needed in designing the system. As we have already heard in a number of comments in relation to previous amendments, the lived experience of those who go through the system is incredibly important, and it is required in order to ensure human rights, children's rights and the welfare of our children. That data, along with the basic assumptions and strategies that we are calling for with regard to our young people and children who grow up in Scotland, will be crucial if we are to look forward positively to a future redesigned system that reflects the needs of those who interface with it.

We cannot be confronted with the challenge that has confronted us throughout the journey of this bill, which is that the figures are not known, are unavailable or sit somewhere else. When questions about data collection have been raised, the Government has pointed to various bodies that are responsible for collecting it, but this is an opportunity for the Scottish Government to step up to its responsibility of understanding the journey that our young people undertake throughout their formative years, particularly those with certain characteristics and those who are returned to the system. We need a better understanding of why and how that is happening and how we can make Scotland the best place for young people and children to grow up in, even for those who interface with the children's hearings and the justice system.

I move amendment 80.

Roz McCall: I note the amendments in this group; we will be supporting amendments 81, 85 and 86.

I have already highlighted the importance of a continual assessment of the process, with continual review and reports being brought to Parliament. Such an approach will ensure that the Government is able to respond appropriately to any gaps that are identified and any issues in relation to victims' rights. It is vital that victims'

experiences of the system are understood and responded to and that any impact on the fulfilment of their rights is clearly identified.

Unfortunately, we cannot support Martin Whitfield's amendment 80. I acknowledge the intent behind it, but it raises questions about restorative justice and whether it is appropriate in all instances, particularly domestic abuse cases, irrespective of the age of the victim or the abuser.

Domestic abuse, coercive control and intimate partner violence are not one-off events; they are a course of conduct, the frequency and severity of which can escalate over time, and that can reach across private and public spaces. Domestic abuse may continue overtly or covertly at different stages of a relationship and beyond, perhaps accompanied by stalking and harassment, including post separation, irrespective of the party's engagement with the criminal justice system or of the age of the offender or victim. I am concerned that amendment 80, as drafted, is not domestic abuse trauma informed. For that reason we will not be supporting amendment 80, although we are happy to support the other amendments in the group.

Natalie Don: I understand the intention behind the amendments lodged by Mr Whitfield. Reviewing the processes and initiatives that have been put in place to support children and understanding their outcomes for Scotland's children and young people is extremely important. However, Mr Whitfield lodged similar amendments at stage 2, and I had the opportunity to share my concerns with him then. I would not wish to create further reporting duties, given that much of the data is regularly reported on.

It is unclear what the added benefit of the reporting duty in amendment 80 would be. The Scottish Government is committed to ensuring that restorative justice services are available across Scotland, and it has been working in partnership with Community Justice Scotland and the Children and Young People's Centre for Justice—CYCJ—to deliver on that commitment. It has also committed to the recommendations in respect of the "Hearings for Children" report. Information about restorative justice services and the work being undertaken to achieve the commitment is already published on the Community Justice Scotland website, so an effective means of reporting on the provision of such services is currently available.

We also support CYCJ to produce an annually updated practice guide on youth justice, in which there is a restorative justice chapter. The Government will ensure that that is covered in our new youth justice action plan when it is launched in June—

Martin Whitfield: Is the minister confident that both objective and subjective evidence and data will be collected by the Government so that when it comes to the redesign bill in particular, those who are tasked with that redesign will be able to find objective and subjective data on the experiences of young people travelling through the system and we are not challenged with some of the things regarding data that have happened in relation to the Children (Care and Justice) (Scotland) Bill?

Natalie Don: I am confident about that.

Moving on to amendment 81, the rehabilitation and reintegration of children who have committed an offence is a key tenet of the Scottish Government's whole-system approach to preventing offending by children and young people. A package of support should be detailed in a child's plan to help them to successfully integrate back into their community. That is incorporated in the standards for those working with children in conflict with the law.

Imposing a duty on the Scottish ministers to report on something that is led by local authorities does not fit with the role of the Scottish ministers and would not work in practice. If amendment 81 is intended to be specific to an individual case, that would undermine the independence of the judiciary, and I am sure that Mr Whitfield does not intend that. Moreover, data on the use of alternatives to detention for under-21s is set out in the annual statistical publication "Criminal Proceedings in Scotland", which is published on the Scottish Government's website. Amendment 81 seems unnecessary.

Turning to amendment 85, the Scottish Children's Reporter Administration already publishes a significant amount of information on its website, as well as an annual statistical analysis that covers much of the territory that the member identifies in amendment 85. To accept that amendment would lead to duplication in the system.

The reporting duty in amendment 86 also raises concerns, because it singles out the publication of data in relation to children referred to a children's hearing on offence grounds who go on to commit further offences. It is highly inappropriate and disproportionate to single out such referrals, given the ethos of the children's hearings system. Even if data referred to in the amendments was to be "published" in an anonymised state, it may still be possible for those who have no need to know the information to piece together very sensitive and personally identifying information about a child. That would not be lawful under the general data protection regulation and it would breach the children's right to private life under article 8 of the ECHR.

Moreover, the reporting duty that the member aims to place on Scottish ministers lies more appropriately with other bodies with the relevant specialist knowledge and expertise—for example, the provision of social services for secure care placements. I would query whether the member has consulted with the Information Commissioner's Office on his amendments, given those serious data protection implications. Additionally, I am concerned by the loose definition of outcomes in amendment 86; a positive outcome for one child may be significantly different from a positive outcome for another.

18:15

I appreciate the intent of the amendments, and the desire to understand how the complex mechanisms interact, but much of the data is already available, which would create undue duplication in the system.

I question the appropriateness of amendment 81, as it would impact the independence of the judiciary. Additionally, amendment 86 would be disproportionate and likely not lawful under GDPR and the ECHR. Therefore, I urge Mr Whitfield not to press amendments 80, 81, 85 and 86. If they are pressed, I urge the chamber to reject them.

Martin Whitfield: As I said in my opening speech on this group, the amendments are about ensuring that the Government is confident that data will be available for those who are tasked with the redesign bill, the Promise bill and with the other legislation that, as we are now aware, will have to be dealt with because of amendments that have already been agreed to. That level of confidence did not exist at the beginning of the discussion on the bill. However, under the circumstances, I seek to withdraw amendment 80. I do not intend to press the other amendments.

Amendment 80, by agreement, withdrawn.

Amendment 81 not moved.

Section 23—Secure accommodation services

The Deputy Presiding Officer: Group 11 is on residential accommodation for children. Amendment 1, in the name of Sue Webber, is grouped with amendments 29 and 82.

Sue Webber (Lothian) (Con): As Ruth Maguire stated at the outset of today's proceedings, children can be both victims and perpetrators of harmful behaviour. There is always a fine balance in managing the risk when two young people are involved in something distressing. The bill will introduce changes that will end the placement of under-18s in young offenders institutions. However, I am clear that no child should be

accommodated in the same secure accommodation facility as the child who has caused them harm.

I recognise that all children in secure accommodation are vulnerable, that protections must be in place for their safety and that reassurance must be given that those protections are in place. Amendment 1 provides that, before approving a secure accommodation service, Scottish ministers must be satisfied that it can ensure that no child will be placed with another child in particular circumstances. Those are when it has been established that one child has offended against the other child, or when they have acted or behaved in a way that has had, or is likely to have had, a serious adverse effect on the health, safety or development of the other child.

I thank the minister for the productive discussions that we had following my lodging a simple amendment at stage 2, which was rejected. We have worked together to ensure that amendment 1 may proceed.

I am aware that processes are in place for the appropriate placement of children in secure accommodation and that, in practice, no child who has committed an offence against or harmed another child would be placed in the same facility as that child. However, my amendment will provide reassurance that processes are followed by secure accommodation services, and it will ensure that Scottish ministers are satisfied that that approach is followed before they approve such a service. I encourage all members to support the amendment.

I move amendment 1.

Roz McCall: I am back on my feet and trying again on this. I keep hearing stories about instances where things that are happening on the ground are not necessarily what we are told is happening. Last week, I spoke to a foster carer who highlighted, among other things, his concern that, due to the lack of foster carers in his council area, children were being placed in residential facilities wherever there was space for respite care. That was not the first time that I have been advised of that issue, and I know that a few council areas have the same problem. Due to issues caused by the falling number of foster carers, children all over Scotland can be placed outwith their council areas and in residential accommodation when, in normal circumstances, they would have been placed with local foster families.

We can add to that situation other reports from people that I have spoken to, such as care leavers who have told me about their experience of residential settings where children who were to be placed in a safe environment away from home

were forced to live with other children who were banging on doors and threatening abuse or assault.

The care-experienced community has been asking us to listen to them, stop assuming that we know better and step up to protect them. Amendment 29 is an attempt to do that. It cannot be right that, due to a lack of all-encompassing support at every level, young people have been moved from their homes to keep them safe, only to be placed in alternative living situations where they are unsafe. I have heard the arguments that this happens right now, that measures are in place and that we have robust and secure processes, but care-experienced people are asking us to examine the situation and to change it. I ask members to listen to them and to support both them and amendment 29.

I will be happy to support Sue Webber's amendment 1. I entirely understand where she is coming from on the issue and I appreciate the work that she has done on it with the Government. Scottish Conservatives will also support Martin Whitfield's amendment 82.

Martin Whitfield: Amendment 82 reflects an aim that many people would expect already to be reality: that a young person who is in secure care should be provided with appropriate care, education and support—including advocacy support, which we have heard about in the context of a number of amendments; emotional and mental health support; healthcare; support to maintain family contact, which is recognised as incredibly important in the vast majority of cases; help to transition out of secure accommodation; and aftercare support.

If amendment 82 is agreed to, it will provide the protection that young people need and, more important, fulfil the expectation that support already exists that we know is not provided successfully across the whole estate.

Paul O'Kane (West Scotland) (Lab): I rise to make a brief contribution on amendment 29. I appreciate Roz McCall's comments on the concerns that have been raised with her by the people that she mentioned in her remarks. However, I want to put on the record the evidence that a number of organisations in Scotland, including in the social work profession, have raised about the challenges that such an amendment presents in seeking to take a blanket approach to separating children in secure care according to whether they have caused harm or had harm caused to them, which we have heard about during the debate.

When I speak to members of the social work profession, it is clear that an amendment that takes such a blanket approach would fly in the

face of the principles identified in the Kilbrandon report, which we have discussed several times during the bill's progress and in the course of the amendment process. It would significantly change the tone and ethos of social work for children and young people across Scotland. Roz McCall has outlined a key concern about local authority resourcing, which has been referenced repeatedly during the debate. However, I do not believe that such a blanket approach is the best way to deal with it.

Sue Webber's amendment 1 deals with a particular issue and a particular challenge by ensuring that safe provision is considered prior to the approval of a secure setting.

I highlight a letter that the CYCJ wrote to the committee in advance of stage 2, which pointed out that

"Since its inception secure care has provided support, supervision and care to children who have both been harmed, and who have caused harm."

The CYCJ went on to say that, in its opinion,

"any suggestion that secure care is not capable"

of supporting young people to share those spaces is unfounded in its body of evidence.

I also draw members' attention to evidence from the Department for Education in England in its 2021 report "Secure children's homes: placing welfare and justice children together", which looked at the placing of children who are in secure care on a welfare basis in the same setting as those who are there on a justice basis. That report found no evidence to support concerns that placing children from justice and welfare systems together in mixed settings causes an increased risk of abuse.

Notwithstanding the important concerns about resourcing that have rightly been raised, I have a concern that such a blanket approach would not be appropriate and would not be in keeping with the Kilbrandon principles, which I think we all want to support through the bill.

Willie Rennie: First, I apologise to Sue Webber for not being in the chamber at the start of her contribution.

Paul O'Kane has summarised much of what I would like to say. He talked about tone, ethos and Kilbrandon, and the blanket approach. We need a risk-based approach, which is in effect what Sue Webber has adopted in her amendment 1. We need to trust the professionals who work in the secure accommodation but, at the same time, demand high standards of them, without being too prescriptive. Sue Webber's amendment sets out a reasonable condition that children should not be placed together where one child has committed an offence against the other or where the child's

conduct is likely to have "a serious adverse effect" on the health, safety or development of the other child. The amendment puts health, safety, development and any offence at the heart of the operations and decisions.

I cannot, however, support Roz McCall's amendment 29, which would separate children who are there on offence grounds from others. That is unnecessary and it would be an additional criterion that adopted a blanket approach. The issues that Roz McCall raises are already covered in important respects by Sue Webber's proposed provisions, so I believe that amendment 29 is not necessary and would add an unnecessary restriction.

I therefore support Sue Webber's amendment 1, but not Roz McCall's amendment 29.

Natalie Don: I thank Ms Webber for lodging amendment 1 and for her interest and her considered engagement with the Government on the matter. As she mentioned, procedures are currently in place for the appropriate placement of children in secure accommodation. Those procedures manage the needs and risk profiles of each child who enters secure accommodation through individualised risk assessments and plans. We can be confident in the existing experience and expertise of secure accommodation providers in carrying out the placement process alongside other professionals to ensure that the safety and protection of all children and staff are at the core of the system.

Robust placement processes already take place in the current four secure accommodation services in Scotland, and we would expect that any new secure accommodation providers will follow that approach. Amendment 1 will add to the framework around those practices, and the Government supports it today.

I cannot support Ms McCall's amendment 29. Although it, too, is focused on those who have committed an offence, its aim is to separate from their peers all children who find themselves accommodated in a residential establishment because they have committed an offence. I am sorry to hear about the individual case that Ms McCall has raised, but I do not feel that amendment 29 is the appropriate vehicle to help with that situation.

As I mentioned during stage 2 proceedings, the idea that greater risks are posed to children or staff in care services by children who have committed an offence is simply not borne out by the evidence, nor by the insights of practitioners and managers. Not only is there no evidence to support the separation of children in the manner that Ms McCall proposes, but it would be unworkable in practice. Paul O'Kane raised

valuable concerns around that, which I will expand on.

Although for a small number of placements the reason for a child coming to be accommodated in a particular setting will be that they have committed an offence, things are not often as clear-cut as that. The reason for a placement will usually be wrapped up in a number of wider considerations and broader welfare issues. Many of the children who have committed an offence will be victims themselves, as outlined in research, including from the Howard League for Penal Reform in 2016. Furthermore, Lord Kilbrandon's report in 1964 shifted our approach to addressing the needs of children as well as their behaviour.

The care of children who have had adverse childhood experiences and complex trauma requires a sophisticated understanding and approach. That is what has directed the development of care and services across the sector that we have seen over time. Separating children who have a history of offending behaviour would go against an approach that the sector has been delivering for years and it would run counter to the aspirations of the Promise. Rather than a blanket separation of children, we need an individualised response for the placement of children in care that allows the professionals who are involved the ability to consider the needs and wellbeing of the child, alongside those of others. As I mentioned, a rigorous placement process is already carried out for each child who requires a placement. That is the case in all residential care home settings.

18:30

Turning to amendment 82, I note that the definition of "secure accommodation service" already includes much of what is listed in the amendment as part of the service's core purpose. All children's health, education and other needs are individual, so they cannot be prescribed in legislation. Although secure accommodation providers must ensure that the welfare of all children is safeguarded and promoted, in practice, that will be done in collaboration with other relevant authorities and in accordance with contractual arrangements. Although I appreciate that amendment 82 is well intentioned, it could cause confusion as to where responsibilities lie and compel secure accommodation services to ensure that support is provided even when a child is no longer accommodated by them. For example, local authorities already have aftercare duties towards looked-after children under the Children (Scotland) Act 1995. It is not clear what a secure accommodation service could add to that, particularly as it will not maintain a relationship with the child once they leave the service.

I urge members to support amendment 1 and to reject amendments 29 and 82.

The Deputy Presiding Officer: I invite Sue Webber to wind up and press or withdraw amendment 1.

Sue Webber: Foster care is, of course, a preferred option in many of the cases that Roz McCall has discussed this afternoon—or rather, this evening. I am satisfied that my amendment 1 will provide the assurance that the very best option will be provided and that young people who need to go into care will be in the best place for them. Martin Whitfield's amendment 82 mentions the extensive range of services that should be available directly in secure care settings. However, during some of the visits that the committee undertook as part of our evidence sessions, we saw that many of those services are there or are provided in partnership with other providers such as the national health service, the local authority or, indeed, the third sector. I have echoed what the member said.

With that, I am delighted that it seems that my amendment 1 might pass.

Amendment 1 agreed to.

The Deputy Presiding Officer: Group 12 is minor and technical amendments. Amendment 28, in the name of the minister, is grouped with amendments 30, 31, 32 and 37.

Natalie Don: Amendments 28, 30, 31 and 32 are technical amendments that will alter sections 23 and 24 of the bill with regard to the definitions of a "cross-border placement" and "residential establishment". Amendments 30 and 31 will ensure that the definition of a "cross-border placement" in section 24(5)(b) of the bill aligns with the definition in section 25A(2), which was updated at stage 2. The effect of that will be that the definition will be the same for the purposes of new section 33A of the Children (Scotland) Act 1995 and part 5 of the Public Services Reform (Scotland) Act 2010.

Amendment 32 will insert a definition of "residential establishment" into the relevant interpretation provision in the 2010 act, as a consequence of the new definition of "cross-border placement". Amendment 28 simply cross-refers to that in order to avoid replicating the definition elsewhere in the 2010 act.

Amendment 37 is also technical and will bring the definition of "child" in the Age of Criminal Responsibility (Scotland) Act 2019 into line with the changes that are being made by the bill to the Children's Hearings (Scotland) Act 2011 and the Criminal Procedure (Scotland) Act 1995.

I move amendment 28.

Roz McCall: As most of the amendments in the group are minor and technical in nature, we will support amendments 28, 30, 31 and 37. In relation to amendment 32, I was not quite sure what a “residential establishment” is, but I appreciate that the minister has just informed us, and the reasons behind the amendment. I have listened carefully to that and will be content to support amendment 32 on that basis.

Amendment 28 agreed to.

After section 23

Amendment 29 not moved.

Amendment 82 moved—[Martin Whitfield].

The Deputy Presiding Officer: The question is, that amendment 82 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
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 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
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 Whitfield, Martin (South Scotland) (Lab)

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 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Robertson, Angus (Edinburgh Central) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Deputy Presiding Officer: The result of the division is: For 46, Against 62, Abstentions 0.

Amendment 82 disagreed to.

Section 24—Regulation of care services providing residential accommodation to children

Amendments 30 to 32 moved—[Natalie Don]—and agreed to.

After section 25A

The Deputy Presiding Officer: Group 13 is on cross-border placements. Amendment 33, in the name of Michael Marra, is the only amendment in the group.

Michael Marra (North East Scotland) (Lab): The single amendment in the group relates to the issue of cross-border placements when a child who resides in England, Wales or Northern Ireland is placed in secure care in Scotland. The primary reason why cross-border placements are needed is the shortage of secure care in England. At present, only 13 secure care centres are operational in England, and Ofsted reported in 2022 that, on any given day, 50 children are waiting for a place. In May 2023, *The Guardian* reported that a 12-year-old child in England had been transferred to an emergency placement in a Travelodge, with police in attendance, which should give us some idea of the dire state of the secure care sector in England.

The Deputy Presiding Officer: I ask you to resume your seat, Mr Marra. There is too much background noise and too many conversations are taking place around the chamber. Can we give respect to the member who is on his feet?

Michael Marra: Thank you, Presiding Officer.

Children who require secure care have often been exposed to violence, abuse and trauma, and they are at risk of significant further harm to themselves and others. They are some of the most vulnerable children in our country, and at the heart of cross-border placements is the principle of giving refuge to those who require it.

There are also practical reasons why cross-border placements must continue. A child in the north of England might be living closer to a secure care centre in Scotland than to one in the south of England. In such cases, we should not allow the jurisdictional border to dictate where they go when a cross-border placement means that they retain proximity to their home.

On 29 March 2023, the Education, Children and Young People Committee heard evidence from colleagues in the secure care sector that there are cases in which it is appropriate for a child to have a secure care placement far removed from their home. That is particularly relevant in cases of child criminal exploitation, as it allows the child,

crucially, to break ties with criminal networks in their home community. However, the prevailing policy discourse dictates a preference for keeping children close to home.

Appearing at the Education, Children and Young People Committee on 3 May 2023, the minister stated:

“We have been clear that the number of cross-border placements needs to be reduced.”—[*Official Report, Education, Children and Young People Committee*, 3 May 2023; c 25-26.]

In a subsequent appearance, on 7 February 2024, the minister referenced the Promise, which is a Scottish Government policy, saying that,

“in the Promise, there was a move towards fewer children moving outwith their local authority.”—[*Official Report, Education, Children and Young People Committee*, 7 February 2024; c 28.]

The Government must recognise that a blanket policy of reducing or, indeed, eliminating cross-border placements is simplistic and fails to account for the circumstances that I have outlined so far.

There is also a more immediate reason for the secure care sector in Scotland to continue to accept cross-border placements. The Education, Children and Young People Committee was told by colleagues who work in the sector that as many as 50 per cent of young people in their care are coming from cross-border placements. The rate that is paid for a child on a cross-border placement is higher than the Scotland Excel framework rate, which means that the sector in Scotland relies, to a large extent, on cross-border placements to keep the lights on. One secure care sector professional has said:

“Without that income subsidy, no service for Scottish children would exist.”—[*Official Report, Education, Children and Young People Committee*, 29 March 2023; c 12.]

If it is the Scottish Government’s policy to reduce cross-border placements, it will have to consider how that could be achieved without exposing the sector in Scotland to very significant financial risk.

Worryingly, in the prevailing discourse on cross-border placements, there appears to be a quite incredible theory that, if we close our doors to children from England, that will somehow force the Tory Government to change its behaviour. To be frank, I find that risible. In evidence to the Education, Children and Young People Committee, the Children and Young People’s Commissioner Scotland stated:

“By making it harder for local authorities to place children in Scotland, our hope would be that that would somewhat force the issue of providing more appropriate places in England.”—[*Official Report, Education, Children and Young People Committee*, 22 March 2023; c 46.]

The Tories privatised the system in England and have driven it to the point of collapse. The idea that they will now see the error of their ways is ludicrous.

A callous disregard for the lives of the most vulnerable children in England does not give us here, in Scotland, licence to turn a blind eye to those children and hope that the problem will go away. Closing our doors to those young people will only put them at greater risk in a dysfunctional English system. These young people are in need of safe refuge, and it matters not whether they came on a boat across the channel, on a plane out of a war zone or in a secure van across the border. Our common humanity and basic decency should tell us that we owe them refuge if we can possibly provide it.

I am still unclear, however, as to what the Scottish Government's policy on cross-border placements actually is. I raised that issue in my time on the Education, Children and Young People Committee and then at the Finance and Public Administration Committee, with the minister, on 9 May 2023. I lodged amendments at stage 2 and questioned the minister again at the education committee on 7 February this year. The minister kindly met with me last month. I have written to her, and I have her response here.

Unfortunately, despite all of that, the Scottish Government's policy is, at best, confused. In her letter to me, the minister states:

"The Scottish Government's intention ... is, therefore, not intended to arbitrarily reduce numbers of cross-border placements".

However, later in the letter, in addressing the issue of financial sustainability, she speaks of

"changes required to facilitate significant reduction in cross-border placements".

I am seeking clarity on the record in the chamber today. Which is it—eliminate, reduce or stay the same? What level of reduction does "significant reduction" actually mean? By what policy measure will that end be achieved?

I ask the minister to give a cast-iron assurance, in the clearest possible language, of the Scottish Government's position on cross-border placements. I believe that amendment 33 is consensual and reasonable. It seeks to provide assurance on the operation of the cross-border system. It would require the Scottish Government to carry out a review and publish a report on cross-border placements

"one year after ... Royal Assent".

In particular, that review would look at

"the number of cross-border placements",

as well as the services and support that are provided to children who are subject to those placements.

I believe that the amendment constitutes a very reasonable safeguard to monitor the trend of cross-border placements should the Government pursue the policy, on which I seek to obtain clarity today.

I move amendment 33.

Willie Rennie: Michael Marra is right in many respects. While it should always be an option that the capacity in Scotland can be used by children and Administrations across the United Kingdom, we should be concerned about the extent of cross-border placements from English local authorities. Children should, in the main, be placed as close to home as is possible, as was set out in the Promise. That has not been possible, however, because of the chaos that exists in the English system and the limited capacity arising from that.

That now has a direct impact in that a Scottish child and an English child who are in the same facility have different rights. That cannot possibly be sustainable in the long term. We need to have an equivalence and enhanced rights where we possibly can, to bring into sharp focus the problem that we have. It is a symptom of a problem from elsewhere—

Michael Marra: Will the member take an intervention?

Willie Rennie: I will in a second.

It is not our responsibility directly to solve the problem in England, but we should not deal only with the symptoms. We need to try to solve the main problem.

18:45

Michael Marra: I agree that there is a conflict in the legal system in relation to the rights that are provided to children coming from different jurisdictions, but, at the core of this, is it not a worse offence against that child's rights if they are put at risk by not being able to access secure care in Scotland?

Willie Rennie: Yes, I agree with that. That is why we cannot have a hard-and-fast rule on this. We need to make our facilities open, but it is clearly a symptom of a problem elsewhere in the United Kingdom that needs to be resolved.

Some parts of the UK are getting this right. My Liberal Democrat colleagues in Somerset Council joined forces with the Shaw Trust and the local NHS foundation trust to deliver the homes for horizon project. It delivered 10 family-sized homes, 20 specialist foster carers and a brand-new therapeutic education service on two sites.

That shows that it is possible—the project won awards—and that there is change in England. We should be encouraging that change where it is appropriate for children to remain closer to home.

John Swinney (Perthshire North) (SNP): The example that Mr Rennie cited of Somerset Council is a good example of the willingness of public authorities to contemplate that their existing provision and approach are just not good enough. That is the thinking that underpins the Promise. The challenge with which we all wrestle—I know that ministers wrestle with this just now—is that that thinking and willingness to confront the unacceptability of current provision is not always prevalent in public authorities. Perhaps the bill and the comments that Mr Rennie has put on the record will help that process.

Willie Rennie: My colleagues in Somerset recognised that their young people were spread right across England and beyond, and they regarded that as unacceptable. They wanted them to be brought back home, closer to their families and their connections. I hope that that best practice can be spread to other authorities in England. That is why the project won the award, and it is why I am promoting it today. It is important that we spread best practice.

We also have a role, which is why I will support Michael Marra's amendment. The provision in his amendment for a review of cross-border placements no later than a year after royal assent would put an extra focus on the symptoms that we are seeing in homes here, in Scotland. That is why we should support it.

Michael Marra is also right to raise the key point that, if English councils introduce reforms along the lines of those that Somerset Council has introduced, there will be an issue for the homes in Scotland, because their financial models are based on significant numbers of young people coming from other parts of the United Kingdom. If those numbers go—and go quickly—it will cause significant problems, particularly given that we rely on that capacity to house Scottish children in Scottish homes. The minister needs to have a more comprehensive understanding of how that is changing and what the financial impact will be if it changes very suddenly. There might need to be some interventions and support to ensure that the capacity that we rely on is maintained.

We will support Michael Marra's amendment 33, probably for slightly different reasons. It is important that we have a proper understanding of what is happening with cross-border placements. We encourage English councils to follow the route of Somerset, and we want to make sure that young people's rights are enhanced in Scotland.

Natalie Don: I am grateful to Mr Marra for our discussion in advance of stage 3, and I appreciate his interest in cross-border placements and ensuring that children and young people have access to the services that they need.

During that discussion, I thought that I had alleviated some of Mr Marra's concerns, so I emphasise again that I do not see this issue as political. This is not about forcing anyone to act. What should be forcing people to act is the priority of ensuring that what is happening is in the best interests of the child.

There will always be exceptional circumstances in which children are required to be placed in Scotland, but that is what they should be—exceptional circumstances. Placements should be dealt with on a case-by-case basis, for the child, and not happen as a result of a lack of accommodation in England.

I am not going to put numbers on how many cross-border placements I would like to see or not like to see. I reiterate that I would never expect numbers to be put on this, because placements will be dealt with on a case-by-case basis. We need to focus on what is best for the child and stop thinking about numbers or targets.

As I made clear to Mr Marra when we met, my intention is to ensure that statutory care-planning duties in other jurisdictions have demonstrably been met prior to any child being placed in Scotland. We are continuing to work with our counterparts in other Administrations to achieve that and we are clear that, in cases such as deprivation of liberty order placements, when a child's placement in Scotland is intended to be only temporary, the placing authority should maintain its relationship with the child and retain responsibility for ensuring that they have access to appropriate services and support.

Mr Marra's proposed duty on ministers would require reporting on services that are provided to children on cross-border placements, but it is not clear exactly what services are being referred to and how it is proposed that ministers would obtain information on those from the wide range of people and organisations that would provide them. I am also not clear what the purpose of collating that information would be and what value it would add to the extensive work that the Scottish Government is already undertaking on cross-border placements, as I have previously discussed with Mr Marra.

However, I can assure Mr Marra that we want to ensure that all children who are placed in Scotland have access to the right services and to ensure that their rights are respected and their needs are met. That will be a key consideration in the

development of future regulations that are enabled by the bill, if it is passed by Parliament.

The Scottish Government has mechanisms in place to review and understand issues that arise in Scotland as a result of cross-border placements, in order to inform the approach to future regulations. For example, the Care Inspectorate will soon provide us with further intelligence from its thematic review of cross-border placements. That will include assessment of the practical realities of such placements into Scottish children's residential care homes from a variety of perspectives.

That will be informed by feedback from children and young people who have been placed in Scotland, placing authorities, Scottish receiving local authorities and service providers, as well as the police, health boards and education providers in Scotland. That, alongside the wide range of additional evidence that my officials have been compiling, will enable us to pinpoint the key challenges at play. The Care Inspectorate also continues to monitor the number of placements made into Scotland, given that it is notified of placements of children and young people into and out of Scotland.

Our absolute priority is to ensure that any risks for a child are mitigated as early on in the cross-border placement process as possible. That is why, if the bill passes, with the bolstered powers that we need to do this, we will prioritise the development of regulations on cross-border placements.

A key consideration for those regulations, as I discussed with Mr Marra, will be to ensure that further processes are enacted to safeguard children, with clear lines of accountability and escalation where there is risk or concern in relation to how the child is being supported. In my view, development of the regulations is where we need to focus our resources and attention post-commencement of the bill, rather than putting time and energy into a one-off retrospective review and report.

Those regulations will be subject to the affirmative procedure, so the Parliament will get the chance to fully scrutinise and debate them. Moreover, the factual circumstances and evidence supporting the regulations will be set out and published in the policy memorandum and impact assessments that accompany them.

We would, of course, intend to assess the effectiveness of any new regulations after they came into force. Again, we believe that that would be a more fruitful exercise than reviewing where things stand in the year following royal assent. I am happy to continue discussions with Mr Marra.

On that basis, I cannot support amendment 33. I urge Mr Marra not to press it and, if it is pressed, I ask members to reject it.

The Deputy Presiding Officer: I call Michael Marra to wind up and to press or withdraw amendment 33.

Michael Marra: I thank Willie Rennie and the minister for their contributions. Willie Rennie is absolutely right to highlight the good work of colleagues in Somerset with regard to the kind of change that is possible.

I know that many local authorities in Scotland are going through the process of trying to bring younger people closer to home and their own communities. That is positive, and we should support that kind of good practice where it arises. John Swinney is right to highlight that process.

I think that the issue is married to the core challenge of financial fragility. I hope that we reach a point where cross-border placement numbers reduce as a result of successful reform and change in the English system and that we will have to deal with some of these challenges as a result of better outcomes for young people in England. However, at the moment, I am deeply sceptical that that will take place.

The minister said that we are not "forcing anyone to act". I hear her words in that regard, but they contrast with the evidence from the officer representing the Children and Young People's Commissioner, who said that they want to see a change of behaviour in England, forced by a reduction in those numbers in Scotland.

The minister talked about cases in which young people should be removed from their communities and put on cross-border placements in Scotland as reflecting "exceptional circumstances". I absolutely agree that those should happen only in exceptional circumstances, but at the moment that is not the case. They are clearly a result of the lack of accommodation in England, and we have to deal with that as the reality of what we find. We cannot hope that the situation will be different—we have to cope with it as it is and try to do our best to reform things on that basis.

The minister says that she is not clear on how we will obtain the information. I suggest that she asks for the information, because, in the rest of her response, it sounded as if much of it was readily available.

It is appropriate for Parliament to have a considered look at the situation a year on from royal assent, should the bill pass. I am glad that the minister talked about considering the impact of the arrangements and prioritising some of that. I highlight to her the issue of the return to local authorities of arrangements for cross-border

placements, which are often chaotic for young people and can be rearranged at the last moment.

I do not believe that the amendment is onerous. I believe that it is a reasonable request to provide some form of further oversight for Parliament and some insight into the issue.

On that basis, I will press amendment 33.

The Deputy Presiding Officer: The question is, that amendment 33 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

The vote is closed.

Alex Rowley (Mid Scotland and Fife) (Lab): On a point of order, Presiding Officer. The app did not work. I would have voted yes.

The Deputy Presiding Officer: Thank you, Mr Rowley. I will make sure that that is recorded.

Foysoyl Choudhury (Lothian) (Lab): On a point of order, Presiding Officer. My app did not work either. I would have voted yes.

The Deputy Presiding Officer: I will make sure that that is recorded, Mr Choudhury.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Choudhury, Foysoyl (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Marra, Michael (North East Scotland) (Lab)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 O'Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Whitfield, Martin (South Scotland) (Lab)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Balfour, Jeremy (Lothian) (Con)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Briggs, Miles (Lothian) (Con)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)

Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dowey, Sharon (South Scotland) (Con)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Eagle, Tim (Highlands and Islands) (Con)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 Findlay, Russell (West Scotland) (Con)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gallacher, Meghan (Central Scotland) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greene, Jamie (West Scotland) (Con)
 Greer, Ross (West Scotland) (Green)
 Gulhane, Sandesh (Glasgow) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hoy, Craig (South Scotland) (Con)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lumsden, Douglas (North East Scotland) (Con)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Robertson, Angus (Edinburgh Central) (SNP)
 Ross, Douglas (Highlands and Islands) (Con)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Simpson, Graham (Central Scotland) (Con)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)

Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitham, Elena (Carrick, Cumnock and Doon Valley)
 (SNP)
 Whittle, Brian (South Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 21, Against 89, Abstentions 0.

Amendment 33 disagreed to.

Section 26—Antisocial behaviour orders relating to children

Amendment 83 not moved.

After section 27

The Deputy Presiding Officer: Group 14 is on decisions to prosecute children: UNCRC compatibility issues. Amendment 34, in the name of the minister, is grouped with amendments 36 and 39.

19:00

The Cabinet Secretary for Justice and Home Affairs (Angela Constance): Amendments 34, 36 and 39 seek to protect the rights of victims as a result of the effect on criminal proceedings of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024.

In considering detailed implementation of the 2024 act, a particular issue has been identified in relation to an adverse impact on criminal proceedings, which the Scottish Government wishes to rectify. That impact relates to section 8 of the 2024 act, which deals with judicial remedies that a court or tribunal can grant on finding that a public authority has acted, or was proposing to act, incompatibly with the UNCRC requirements. A court or tribunal can be a criminal court where such an incompatibility arises in criminal proceedings.

Section 8 of the 2024 act provides that, in those circumstances, a criminal court

“may grant such relief or remedy, or make such order, within its powers as it considers effective, just and appropriate.”

That would include the power to desert criminal proceedings.

The UNCRC requirements are far reaching and will provide new grounds for challenging prosecutorial decision making that do not exist at the moment, including in relation to the ECHR. Those new grounds for challenge have the potential to lead to outcomes in criminal cases that could have a negative impact on the rights of victims, who might themselves be children. For example, they might lead to a prosecution failing in respect of a child who is alleged to have committed an extremely serious offence,

potentially against another child who is the victim. If that were to happen, the resulting impact on the victim could be severe, and the wider public could potentially be placed at risk of harm through further offending.

Amendment 34, which is the main amendment in the group, seeks to militate against that. It will adjust the application of section 8 of the 2024 act in cases in which a criminal court has determined that the decision to prosecute a child was incompatible with the UNCRC requirements and is contemplating deserting the case. The priority is to make sure that cases are not deserted in circumstances in which the prosecutorial decision can be retaken in a way that is compatible with the UNCRC requirements and there is no other reason why desertion would be appropriate.

Martin Whitfield: The situation that the cabinet secretary describes is one of the results of human rights. It often becomes a question of looking at the balance between two individuals' human rights and deciding which should take precedence. We have a well-established process for how to decide that. Why do we need to abandon an element of the UNCRC even before it comes into force, without relying on the pre-existing way for such decisions to be made?

Angela Constance: I very much appreciate Mr Whitfield's point, which gives me the opportunity to stress that it is not a case of us abandoning the UNCRC—far from it. As a result of the in-depth implementation work that has been pursued across Government, it has been recognised that the UNCRC requirements are far more far-reaching, because they extend beyond the fairness of criminal proceedings and into prosecutorial decision making. We are talking about a new ground for challenge that does not exist at the moment, so the risk is amplified.

My next point will directly address Mr Whitfield's point. The lack of authoritative interpretations of the UNCRC adds to the risk. Unlike when the ECHR was incorporated into domestic law via the Human Rights Act 1998, there is no existing body of case law in relation to the interpretation of the UNCRC. We need to address that issue, but, as we proceed, I hope that Mr Whitfield will see that we are doing so in a balanced and proportionate way. We are not seeking to mitigate the issue in an unfettered way that does not have boundaries, so please bear with me.

We consider that it is important to address the issue and to uphold the interests of all who are involved in a case, including child victims, who might be denied justice if a case is deserted and not able to be progressed through new criminal proceedings due to the expiry of relevant criminal proceeding time limits or because the court has ruled that the case cannot be reraised.

The effect of amendment 34 will be to require the court to adjourn the case to allow the prosecutor to reconsider the decision to prosecute in a way that is compatible with the UNCRC requirements. However, that requirement will apply in limited circumstances—for instance, the requirement will not apply if the court is contemplating deserting proceedings because of another UNCRC compatibility issue arising in the case that is unconnected to the decision to prosecute. It will also not affect the court's power to desert proceedings in response to matters that are currently unlawful and where that remedy is available to the court—for example, in respect of an action that is compatible with ECHR rights.

Moreover, the requirement will not apply if any of the three exceptions applies. The first exception is where there is no reasonable prospect of the decision to prosecute being reconsidered in a UNCRC-compatible way. The second is where there are exceptional circumstances that justify the court denying a reconsideration. The third is where the prosecutor has already had the opportunity to reconsider the decision to prosecute and the court considers that bringing proceedings remains incompatible with the UNCRC requirements.

The amendments recognise the uncertain and far-reaching impact of the UNCRC requirements on decisions to prosecute. They strike a fair and proportionate balance between protecting victims, serving justice in the public interest and upholding the rights of children who are involved in criminal proceedings. In doing so, they afford the prosecutor an opportunity to remedy a breach of the UNCRC requirements in a clear, certain and transparent way, while retaining the court's ultimate judicial discretion in granting an effective, just and appropriate remedy for any UNCRC breach.

Amendment 36 would bring the provisions in amendment 34 into force on the day after royal assent or 16 July 2024, whichever is later. That approach ensures as much as possible that the protections for victims' rights are in force for 16 July this year, which is when general commencement of the 2024 act is scheduled to take place.

Amendment 39 is a minor consequential change to the long title of the bill.

I move amendment 34.

Roz McCall: I will focus my remarks on amendment 34. Victim Support Scotland was quite correct in its stage 3 briefing when it said:

"VSS are concerned by the government's amendment relating to UNCRC compatibility issues in relation to decisions to prosecute a child. This amendment could have potentially significant consequences for a victim. It provides the court and COPFS the power to acquit the defendant or

adjourn cases for an indefinite period of time if it is believed that the prosecution of this case is not compatible with UNCRC legislation."

It went on to say:

"We believe this amendment contradicts assurance victim support organisations have been given regarding the Lord Advocate's guidelines and the retention of the power to dispose cases to the criminal justice system. We do not believe this is in line with trauma-informed practice and are deeply concerned that an amendment with such a potentially significant impact has been brought forward at Stage 3 without adequate time for scrutiny."

We will not support amendment 34 or the other amendments in the group.

Martin Whitfield: There are two elements that I would like to deal with. The first relates to all the amendments and when they have been lodged. Very obviously, there has been insufficient time to look in depth at their effect. I refer back to group 1. The Government expressed concern and said that, if proper consultation had not taken place on amendments, we should not entertain them.

Secondly, I will raise a matter that is on the record from 27 March 2024, when I asked the First Minister the position with regard to substantial changes to bills being proposed at stage 3. He said:

"I would say that stage 3 certainly allows for debate ... for frank and free exchange of views on any amendment. However, I do not disagree with you: it is better for everybody involved if amendments—certainly substantial amendments that would have a significant impact on legislation—can be lodged at stage 2."

It would appear from the cabinet secretary's submissions today that the amendments arose as a result of the Scottish Government's cross-Government work on the effect of the UNCRC. When we raised the question of the UNCRC in respect of the very bill that we are discussing, we were told that it was too late—that the bill was in existence and that the matter would be looked at later on. We were also told by the Government that the cross-Government work would seek to identify where the UNCRC could be used to support young people.

It appears that the very first issue that has come to light is to do with challenges to prosecutorial decision making under the UNCRC. A situation has now arisen in which there is potential conflict, should an individual who is being prosecuted identify human rights grounds on which to challenge a decision. Thus, the conflict that the cabinet secretary has articulated might occur in our courts.

Russell Findlay: I hope that Martin Whitfield can help me to understand better what is being said. The Government has lodged a raft of important stage 3 amendments. Has that been done in mad panic because it has realised that

provisions need to be in the bill? Is it incompetence, or is there some other agenda that is not obvious? [*Interruption.*]

Martin Whitfield: I am grateful for that intervention. In the past, we have seen amendments that were lodged at stage 3 including, ironically, to the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill, in which unforeseen consequences—the Scottish Government did not foresee the consequences, certainly—have caused significant problems not just in relation to the procedural aspects in this Parliament, but in relation to people across Scotland.

I am extremely concerned that a number of incredibly complex amendments have been lodged at stage 3 that lack explanation other than in relation to where they are likely to have effect—that is, in prosecutorial decision making.

It is interesting that, in part response to my intervention, the cabinet secretary spoke about the challenge arising from the lack of case law in relation to identifying the extent of the UNCRC. It is somewhat unfair to point to the ECHR because, when that was brought in, people were unclear as to the extent of its application, which has developed over time.

In addition, notwithstanding the validity or otherwise of the amendments, it is incredibly unfortunate that the Government is seeking to amend what is possibly one of the most important pieces of legislation ever to come before the Scottish Parliament, in this, its 25th year, and even before that legislation takes effect. I am disappointed that the Government did not identify those challenges in the substantial period that it has had to look at the UNCRC, and that it did not come to us with that.

The amendments in this group will dilute legislation. People must agree that that is the case. At the end of the day, where we have a conflict of human rights, I say with the greatest of respect that the appropriate decision maker should be the court: it should make the decision, not the state.

My understanding of the position at the moment is that the presumption is that the prosecutor should be given an opportunity to reconsider bringing criminal proceedings against a person in a way that is compatible with the UNCRC. My understanding is that that cannot simply be a rephrasing of the charge that has been brought against them, because that would still fall foul of the UNCRC.

Is it the Government's position that prosecutors will be asked to go away and reconsider where any potential criminal liability would lie? I am not sure that simply rephrasing the charge sheet

would satisfy existing case law, where it has been breached. I am also concerned that, even if the presumption is accepted, the exceptional circumstances criteria for a court to rebut are perhaps at the highest possible level.

19:15

As I have already said, the appropriate solution with respect to rights is that the court should continue the case if it considers that doing so is necessary in the interests of justice. The decision would be informed by submissions from all parties on the relevant human rights issue that must have been investigated for it to be raised with the prosecutor at some stage. Of course, the procurator fiscal can contribute to that decision. If the case is not continued, there can be an appeal to the Crown. That is how such challenges work at the moment, and have worked very effectively for the past 20 years.

With the greatest respect, I note that consultations on amendment 34 seem to be thin on the ground. A number of people and groups outside Parliament have said that they just cannot get their heads around what the amendment is about and therefore cannot contribute. Those who have contributed have expressed concern about how late the amendment has come to us, about its complexity and about the fact that there are no worked examples that could be looked at. Frankly, for it to go against the UNCRC at the first opportunity that is presented is not a good look for the Scottish Government. To repeat something that I have heard a lot, I note that stage 3 is not the place for this. There are avenues through which the matter could be looked at, including bills that are already at stage 1. We cannot support the amendment today.

Willie Rennie: The cabinet secretary has done something quite remarkable. She has managed to unite a whole range of stakeholders. Scottish Women's Aid described amendment 34 as "impenetrable". Children 1st has said that it is "not clear" and Victim Support Scotland said that it is "deeply concerned".

We have had an explanation from the cabinet secretary today but, to be honest, I would prefer to have been able to put those points to experts, stakeholders and advisers long before today. We did not have any explanation in advance of stage 3. We had to ask the Scottish Parliament information centre for some kind of explanation of what the amendment means.

I have no reason to distrust the cabinet secretary, but I would have preferred that there was a degree of consultation and debate outside the chamber before we were, in effect, forced to consider and vote on amendments. We have been

put in an impossible position this evening. I am sure that the cabinet secretary knows that this is an unsatisfactory way to proceed. It is an opaque way, and it is not how stage 3 should be done.

I am grateful for Martin Whitfield's forensic questions to the cabinet secretary. I hope that she will be able to answer some of them, but if she is not able to, we will not vote for the amendments.

Angela Constance: I appreciate the comments of all members who have participated in the debate on group 14. I hope that members will appreciate that action has to be taken, and I hope that we have given Parliament at least some reassurance that we have our eye on the detail. Given the forthcoming implementation of the UNCRC legislation, and bearing in mind the representation that I have had from prosecutors about a potential gap, issue or risk whereby very serious cases could be deserted, I felt that we should take the first opportunity to bring the issue to Parliament as a whole.

The Government considers that the amendments are justified because they protect the rights of victims, including the rights of child victims. I am sure that no one would want cases to be deserted by courts because of an incompatibility with the UNCRC. For example, when it comes to article 12, if the views of the child have not been taken into consideration, we would all expect that, in the interests of justice, there should be some sort of remedy to that.

I again put on record that the UNCRC requirements are much more far reaching than the ECHR and that, for the first time, they take us into the decisions that are made by prosecutors. I will not reiterate the entire statement, but there are some very clear limits—for courts and, indeed, prosecutors—on the circumstances in which decisions can be revisited or overturned. I have said that part of the issue is that there is a lack of authoritative interpretations of the UNCRC requirements—unlike the body of case law that exists on the ECHR. I refute the idea that UNCRC rights are lesser than ECHR rights. They are just different, and they require different provision in this instance.

Martin Whitfield: Why, to test the conflict of rights, is the Scottish Government not relying on the system that has existed for 20 years?

Angela Constance: I cannot make it any clearer that, for the first time, we will be going into uncharted territory, in which there will be new grounds for appeal for the accused on the basis of prosecution. I think that all of us in the Parliament, at various points in our tenure, have defended the rights of prosecutors—not least the Lord Advocate.

I will come to a conclusion and give some reassurances to the Parliament. We are trying to mitigate the risk of a case being deserted when a decision to prosecute is challenged—which, in turn, may have a negative impact on the rights of victims. I believe that the suggested provisions are a fair and proportionate balance between giving the prosecutor an opportunity to remedy a breach of the UNCRC requirements—there are clear limits to that—in a clear, certain and transparent way, which will ensure consistency of practice, and, crucially, retaining the court's ultimate judicial discretion in granting an effective, just and appropriate remedy when there is a breach.

The Deputy Presiding Officer: The question is, that amendment 34 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)

Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Robertson, Angus (Edinburgh Central) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Against

Baillie, Jackie (Dumarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

The Deputy Presiding Officer: The result of the division is: For 62, Against 48, Abstentions 0.

Amendment 34 agreed to.

Amendments 84 to 86 not moved.

The Deputy Presiding Officer: Group 15 is on resources for implementation of the act. Amendment 35, in the name of Roz McCall, is grouped with amendments 87 to 89.

Roz McCall: Amendment 35 is another amendment that highlights the need for review and reporting to Parliament on the progress on and processes of the implementation of the bill. As I highlighted at the outset, in my remarks on Ruth Maguire’s amendment 84, I fundamentally believe that we must continue to assess the changes that are before us, and that should involve not only how they are working in practice but how they affect victims’ rights and experiences, how the rights of all children involved in hearings and criminal proceedings are affected and the effect on other children who may be on the periphery but who are equally affected by the changes.

The Scottish Government has still not answered concerns over the implementation of the processes that are needed to ensure that the proposals work on the ground. Scottish Women’s Aid and Victim Support Scotland have continually sought assurances that victims will not have their current rights eroded by the changes. Victim Support Scotland’s briefing for today’s debate puts it more eloquently than I can, so I will refer to it again. It states:

“Throughout the progression of the Bill through parliament, we have identified a significant lack of information and data relating to victims’ experiences of the CHS and case outcomes for victims. To better understand the system’s ability to successfully manage cases involving offending behaviour and victims’ experiences, it is vital that this information is collated, reported and reviewed by government. This will ensure that the government are able to appropriately respond to any gaps identified and issues surrounding victims’ rights.

We believe it is vital the victims’ experiences of the system are understood and responded to and that any impact on the fulfilment of victims’ rights is clearly identified.”

On that basis, I urge members to support amendment 35 and the other amendments in the group.

I move amendment 35.

Pam Duncan-Glancy: One of the key concerns that has been highlighted in briefings, evidence and engagement on the bill is that the system in its totality—social work, secure care, justice, advocacy and so on—as it is currently resourced, in terms of funding, staff, numbers, support and training, does not have the capacity to do what the bill aims to do and, in fact, that the bill may set back the progress that has been made.

Although finance is important, it is not the sole concern. Social Work Scotland emphasised

“the importance of these changes being fully funded, with equal consideration given to the wider staffing needs and capacity of the sector to manage further change, including, as already highlighted, the sequencing of any changes resulting from the bill.”

It went on to say that, without considering capacity in that way,

“the bill will not achieve its purpose and risks placing further pressure and stress on an already stretched workforce, impacting further on recruitment and retention and capacity to meet the goals of the Promise to which we adhere.”

I was therefore disappointed that the Government did not support our earlier amendments on joined-up working and multi-agency approaches. Those amendments would have put in the bill the Government’s intention to ensure that all those systems are in place—so one would assume that the Government would have supported them.

Furthermore, the timescales for young people in the system who are already waiting to be processed are worrying, and the target recruitment number for panel members has not yet been met. To expand the number of young people entering the system will exacerbate those issues and will likely leave more children to wait more time to be processed and supported through the system.

The Mackie review made clear recommendations on the importance of young people having consistency of panel members and chairs, and that needs capacity and more members. We encouraged the Government to ensure that those recommendations were met before it moved forward with the bill, but it has not done so. I think that that ignores the principle that sequencing in legislation is really important.

In addition, the committee heard from Social Work Scotland that the system is overstretched not only because of a lack of capacity and vacancy but because of increasing absence rates over each of the past three years. The percentage of social workers having sickness absence went from 62.5 per cent in 2021 to 83 per cent in 2023.

There is no specific provision in the bill to address those issues, and Scottish Labour is deeply concerned that, without such a provision, young people might not get the support that they need, and thus the benefit of placement in secure care. It is worth noting that young people in secure care themselves told the committee that consistent social work support is crucial, but that they regularly get several different workers—one of them said that they had had eight social workers in eight years. That is not conducive to the promotion of welfare or the rights of children and young people.

19:30

Social workers and staff working for the care of children and young people are working day and night, and I put on the record my thanks to them. We owe it to them, to the other staff in the system and to the children in it to sequence change properly and to resource it accordingly. Indeed, we heard a while ago about the need for flexibility and capacity in the system to ensure that the Kilbrandon principles can be maintained on provisions for children and young people in secure units. That capacity is not there yet, and we need to ensure that it is in place.

My amendment 88 therefore seeks to prevent commencement of the bill until the Government publishes a report introduced by amendment 87, confirming that there is sufficient capacity across the system to meet the requirements of the bill. I believe that that would have the effect of ensuring that capacity was in the system to do that properly or, at the very least, it would encourage decision makers who were keen to commence the act to take swifter action on that. Amendment 89, similarly, seeks to delay commencement, but only until the Government is able to confirm to Parliament via a report that there are sufficient panel members to meet the provisions. That is the least that should be in place.

I hope that the Government will support amendment 88 but, if it does not, I hope that it will at least support amendments 89 and 87. In short, it is my view that my amendments in this group, particularly amendments 88 and 89, are necessary to ensure that the system and the staff in it are sufficiently supported and resourced to meet the demands that will be placed on them and, crucially, that the young people who are in the system now and who may come into it after the passage of the bill enjoy the goals of the Promise—the promise of a system that supports the voices of children, with the time and capacity to involve them in decisions about their care. The amendments are necessary to ensure that a system is there to provide the scaffolding that supports children, families and the workforce in keeping the Promise. On that basis, I hope that members will support my amendments 87, 88 and 89.

Willie Rennie: I would say that financing and resources have been the most contentious issues throughout the bill process. The minister was heavily criticised by the Finance and Public Administration Committee and the Education, Children and Young People Committee for the inadequacies in the original financial memorandum.

I would encourage members, if they have time, to go back and look at the evidence that was provided by social workers. They were conflicted

by the proposals. They supported the Promise and the bill—they wanted it to happen—but they knew the state of their departments, and they knew about their shortages of staff. Pam Duncan-Glancy spoke about the turnover of social workers for young people, which seems to be never ending. Social workers are deeply concerned that the bill will pass, no more money will come, and they will be left to pick up the pieces and to try to patch things together.

There is a deep concern and anxiety that the bill will not be properly funded. I do not think that the First Minister and Deputy First Minister are here in the chamber today, but I hope that they are listening to the assurances that the minister is about to give to us. She gave them to us at the Education, Children and Young People Committee, saying that the money would be forthcoming and that the system would be properly funded, resourced, sequenced and all working effectively. I hope that she has the support and approval of all her Cabinet colleagues to ensure that that happens, because lots of people are watching—not just the social workers, who are finding it difficult to cope with the system, but looked-after children.

We recently met looked-after children through Who Cares? Scotland, which has done a brilliant job of bringing together people who have been through the system. Those at Who Cares? Scotland are exasperated and frustrated, and feel that nothing has really happened. They want action to progress. The bill gives us an opportunity to progress things, but only if it is funded properly. I hope that the money will be forthcoming and that we do not let those young people down. We will be watching very closely.

I do not want to put any barriers in the way of making the provisions in the bill happen, so I do not agree with Pam Duncan-Glancy's mechanisms. I am glad that she has lodged her amendments, but we will not be supporting amendments 88 and 89. We will support amendment 87. It is important to flush out the debate and have it properly authorised and supported by the Cabinet, so that it fully understands the anxieties that are felt across the system, and so that the money is forthcoming and we do not let young people down.

John Swinney: I have followed a lot of Willie Rennie's argument and I understand where he is coming from. However, I will establish the link with his comments about Somerset Council. A lot of the reforms require changes of attitudes, as well as the money being in place. It is right to press on resources, but it is also right for Parliament to press about changes in attitudes within public authorities to undertake the reforms—such as those that happened in Somerset, which the

member correctly cited—that require to be undertaken to deliver the Promise in its entirety.

Willie Rennie: I fully accept what John Swinney has said. It requires a whole-system, cultural change and an attitude change from all the different stakeholders and contributors. The history of this is not a good one, and I have given the evidence about the state of social work departments and how difficult they are finding it just to cope.

I have personal experience of meeting looked-after children: they have one social worker after another for years on end; we end up with a crisis and they are taken into secure care. That is not the way to treat young people, and that is why we need the resource to be forthcoming. I accept the point that it is not just about money, but about culture; however, money is pretty important.

Natalie Don: This group of amendments is founded in members' understandable interest in ensuring that the right resources will be in place to support the bill. The bill proposes the displacement of more cases to children's systems, services and settings. Members are right to seek clarity that those mechanisms will be ready to deliver from initial commencement and on an ongoing basis. However, I am concerned not to draw agencies' resources and attention away from substantive planning and preparation, and divert them instead too far towards reporting, especially when that proposed reporting is either too broadly drawn or unduly prescriptive, or when the proposed reporting intervals are so premature or so retrospective.

I have already stated to Parliament that we will not commence these provisions until I have assurances that all key delivery agencies are ready. I am already in conversations about that, and I have been throughout the process of the bill.

Pam Duncan-Glancy: I get the point about reporting, but the amendment that I lodged at stage 2 did not include a reporting mechanism. It asked for the bill's provisions not to be commenced until the system was up and running and had capacity. Between stage 2 and stage 3, the minister and I discussed whether a report to establish whether there was capacity was necessary. If the minister has another mechanism through which she could establish whether the capacity is in the system and that does not require a report, I would be interested to hear about it.

Natalie Don: Pam Duncan-Glancy is right to draw on some of our conversations between stage 2 and stage 3. I have a different opinion on the definition of system readiness or capacity, and I think that Pam Duncan-Glancy is being a little hasty with the amendments at play here.

On Roz McCall's amendment 35, which requires a report to be laid in Parliament a year after royal assent on whether sufficient resources were in place, it is already clear that there will be provisions in the bill that will not be commenced until well after the first anniversary of royal assent. That reality renders that particular amendment redundant.

There are also issues with the identified reporting heads in that amendment. I will take a moment to describe why those proposals are problematic, because the point also applies to Pam Duncan-Glancy's amendment 89.

On secure care, there is already daily reporting on occupancy rates for each centre. A retrospective report on occupancy rates would add no value to forward planning. More appropriate and detailed reporting, planning and projection activity already happens.

Children's social work staff numbers are not a reliable illustration of professional support capacity for children's hearings decisions. It is for an entire local authority, with important contributions from the third sector and others, to implement hearings' decisions. The amendment would not capture the information that it clearly intends to capture. However, I am acutely aware of the challenges that committee members heard about. A whole host of work is under way to improve that situation. I updated the committee on that.

On children's panel numbers, there are variations in the availability of individual panel members. That availability also fluctuates for individuals from time to time. There are also significant prevailing differences in local requirements in relation to panel numbers. Both factors directly affect the case load processing capacity among local areas. There could be a huge number of panel members, but that does not necessarily mean that the system is ready. It depends on the availability of those panel members. Therefore, we need to look at the finer detail.

An aggregate report on total national panel numbers, looking backwards, would not assist Parliament.

Pam Duncan-Glancy: Will the minister take an intervention?

Natalie Don: I will just make some progress.

Instead, prospective projections, which have practical management information utility for the national convener and Children's Hearings Scotland, are already in place.

Pam Duncan-Glancy: That is why my amendment 88 sets out that it is about the capacity in the hearings system rather than specifically the numbers.

Natalie Don: I will get to amendment 88 in a second.

Amendment 87, in the name of Pam Duncan-Glancy, would entail the compilation of material from a range of sources that are directly engaged in preparing for the commencement and implementation of the bill. The amendment is not strictly required, given our implementation planning and our usual commitment to post-commencement review. That said, I acknowledge Pam Duncan-Glancy's sincere interest in that area, and I note the absence of unduly broad or inappropriately prescriptive elements in the amendment. I will therefore support amendment 87.

There are a number of structural, practical and scope difficulties with amendment 88. Linking the commencement of legislation to a retrospective report so soon after royal assent, particularly without defining either "resources" or "sufficient", is, in my view, an inappropriate precondition. There will be very limited value in publishing a report within the six-month limit set out in the amendment about conditions and capacity during that period.

In respect of secure care, there should be no capacity concerns because our 16-bed funding intervention is already in place, with funding agreed and confirmed.

On children's hearings, partners on our implementation and resourcing group tell us that the relevant expansion provisions should not be commenced until late 2025-26. Therefore, a report laid here in, say, December 2024 could refer to a period that is actually more than a year before the planned commencement date for some provisions. That would not reveal anything useful to Parliament about current relevant resources or their sufficiency.

As to the issues with scope, the amendment refers to the "children's hearings system". I note that the system extends not only to the SCRA, CHS and local authorities. The report would also need to include reporting on safeguarders, advocacy workers, solicitors and counsel, police, COPFS, courts and the full sweep of local authority services and third sector provision accessible by children, as well as reporting on health services. That would be an onerous and unjustifiable undertaking. I cannot support the amendment.

On amendment 89, there are undoubted challenges intrinsic to the sheer scale of the children's panel element of the children's hearings system. I have met the Children's Hearings Scotland chair and chief executive in the past month, and I will continue to meet them before commencement.

It is not a current or retrospective national snapshot, as proposed by the amendment, that is required; what is needed, and what will be in place, is an informed and evidence-based series of forward projections that look forward to potential commencement dates.

On a rolling basis, remedial recruitment and retention actions that strengthen the panel are required in preparation for these reforms. We will support the national convener and Children's Hearings Scotland in that.

As I observed at stage 2, we also risk interfering with the vital independence of the national convener of Children's Hearings Scotland. It is that convener's independent statutory role to determine how to resource children's panels, as set out in the 2011 act. For those reasons, I cannot support the amendment, but I am happy to update Parliament regularly on those issues.

Roz McCall: I note the points that have been made, and I echo the concerns that Pam Duncan-Glancy and Willie Rennie raised about upscaling, financing and resourcing, and about the pressure that a lot of our systems—including the children's hearings system and social work—and their staff are under. I know that they all need to be properly funded, and I accept whole-heartedly that there needs to be a change in culture.

I heard the minister's comments on amendment 35. I understand that certain provisions of the bill will come in after the first year, but the amendment includes additional years after that. This is an important part of getting information back to Parliament, so I will press the amendment.

19:45

The Presiding Officer (Alison Johnstone): The question is, that amendment 35 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

The vote is closed.

The Minister for Higher and Further Education; and Minister for Veterans (Graeme Dey): On a point of order, Presiding Officer. My app did not connect; I would have voted no.

The Presiding Officer: Thank you, Mr Dey. We will ensure that that is recorded.

For

Baillie, Jackie (Dumarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)

Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Doney, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O'Kane, Paul (West Scotland) (Lab)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)

Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Presiding Officer: The result of the division is: For 44, Against 68, Abstentions 0.

Amendment 35 disagreed to.

Amendment 87 moved—[Pam Duncan-Glancy]—and agreed to.

Section 31—Commencement

Amendment 36 moved—[Angela Constance].

The Presiding Officer: The question is, that amendment 36 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)

Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Robertson, Angus (Edinburgh Central) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)

Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

The Presiding Officer: The result of the division is: For 64, Against 46, Abstentions 0.

Amendment 36 agreed to.

Amendment 88 moved—[Pam Duncan-Glancy].

The Presiding Officer: The question is, that amendment 88 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

The vote is closed.

Neil Gray (Airdrie and Shotts) (SNP): On a point of order, Presiding Officer. I could not connect to the app. I would have voted no.

The Presiding Officer: Thank you, Mr Gray. We will ensure that that is recorded.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)

Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)

McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Presiding Officer: The result of the division is: For 44, Against 67, Abstentions 0.

Amendment 88 disagreed to.

Amendment 89 moved—[Pam Duncan-Glancy].

The Presiding Officer: The question is, that amendment 89 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foysof (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Lumdsen, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)

Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)

Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Presiding Officer: The result of the division is: For 43, Against 69, Abstentions 0.

Amendment 89 disagreed to.

Schedule

Amendment 37 moved—[Natalie Don]—and agreed to.

Amendments 90 to 92 not moved.

Long Title

Amendments 93 to 96 not moved.

Amendment 38 moved—[Natalie Don]—and agreed to.

Amendment 97 not moved.

Amendment 39 moved—[Angela Constance].

The Presiding Officer: The question is, that amendment 39 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)

Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Michael (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 O'Kane, Paul (West Scotland) (Lab)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Robertson, Angus (Edinburgh Central) (SNP)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Slater, Lorna (Lothian) (Green)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitfield, Martin (South Scotland) (Lab)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Against

Balfour, Jeremy (Lothian) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hoy, Craig (South Scotland) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lumsden, Douglas (North East Scotland) (Con)
 McArthur, Liam (Orkney Islands) (LD)

McCall, Roz (Mid Scotland and Fife) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

The Presiding Officer: The result of the division is: For 79, Against 32, Abstentions 0.

Amendment 39 agreed to.

The Presiding Officer: That ends consideration of amendments.

Business Motions

19:57

The Presiding Officer (Alison Johnstone):

The next item of business is consideration of business motion S6M-12948, in the name of George Adam, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees—

(a) the following programme of business—

Tuesday 30 April 2024

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Topical Questions (if selected)

followed by Stage 1 Debate: Abortion Services (Safe Access Zones) (Scotland) Bill

followed by Appointment of the Scottish Pubs Code Adjudicator

followed by Committee Announcements

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 1 May 2024

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions:
 Wellbeing Economy, Net Zero and Energy;
 Finance, Deputy First Minister Responsibilities and Parliamentary Business

followed by Scottish Government Debate: Equality and Modern Positive Masculinity

followed by Business Motions

followed by Parliamentary Bureau Motions

followed by Approval of SSIs (if required)

5.00 pm Decision Time

followed by Members' Business

Thursday 2 May 2024

11.40 am Parliamentary Bureau Motions

11.40 am General Questions

12.00 pm First Minister's Questions

followed by Members' Business

2.30 pm Parliamentary Bureau Motions

2.30 pm Portfolio Questions:
 Transport

followed by Ministerial Statement: Publication of the Mental Health and Capacity Reform

Programme – Initial Delivery Plan
followed by Citizen Participation and Public Petitions
 Committee Debate: Petition PE1887:
 Create an Unborn Victims of Violence
 Act

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

Tuesday 7 May 2024

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Topical Questions (if selected)

followed by Stage 1 Debate: Welfare of Dogs
 (Scotland) Bill

followed by Committee Announcements

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 8 May 2024

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions:
 Rural Affairs, Land Reform and Islands;
 NHS Recovery, Health and Social Care

followed by Scottish Conservative and Unionist
 Party Business

followed by Business Motions

followed by Parliamentary Bureau Motions

followed by Approval of SSIs (if required)

5.10 pm Decision Time

followed by Members' Business

Thursday 9 May 2024

11.40 am Parliamentary Bureau Motions

11.40 am General Questions

12.00 pm First Minister's Questions

followed by Members' Business

2.30 pm Parliamentary Bureau Motions

2.30 pm Portfolio Questions:
 Social Justice

followed by Scottish Government Business

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

(b) that, for the purposes of Portfolio Questions in the week beginning 29 April 2024, in rule 13.7.3, after the word "except" the words "to the extent to which the Presiding Officer considers that the questions are on the same or similar subject matter or" are inserted.—[George Adam]

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S6M-12949, in the name of George Adam, on behalf of the Parliamentary Bureau, on timetabling of a bill at stage 1.

Motion moved,

That the Parliament agrees that consideration of the Housing (Scotland) Bill at stage 1 be completed by 29 November 2024.—[George Adam]

Motion agreed to.

Decision Time*Meeting closed at 19:58.*

19:58

The Presiding Officer (Alison Johnstone): As there are no further questions to be put as a result of today's business, I close the meeting.

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