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Wednesday 30 January 2019

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Scottish Parliament

Wednesday 30 January 2019

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

Portfolio Question Time

Government Business and Constitutional Relations

Brexit (Settled Status Fee)

1. **Linda Fabiani (East Kilbride) (SNP):** To ask the Scottish Government what its response is to the United Kingdom Government scrapping the European Union settled status fee. (S5O-02819)

The Minister for Europe, Migration and International Development (Ben Macpherson): Since the EU referendum in June 2016, the Scottish Government has been consistent in both our words and our actions: we want EU citizens to stay in Scotland. Therefore, I am pleased that the Prime Minister has finally seen sense and listened to the deluge of calls to scrap the unfair settled status fee—including from this Parliament, with the exception of the Scottish Conservatives.

However, dropping the fee does not change the fact that the UK Government is still making EU citizens apply to retain their current rights. Therefore, to assist EU citizens in our communities to apply for settled status, the Scottish Government's advice service, which is delivered in partnership with Citizens Advice Scotland, will help to ensure that EU citizens feel welcomed, supported and valued.

The Prime Minister's approach to migration makes it all the more clear why it is time for this Parliament to have powers over immigration so that it can determine a tailor-made policy.

Linda Fabiani: I advise the minister of the position of a constituent, who has lived in Scotland for decades and has not renewed his EU passport. Now, he must do so—at a cost—to prove to the UK Home Office that he is, in fact, an EU national. In order to do that, he must prove to his EU nation that he is not a British citizen—also at a cost—by obtaining a confirmation of non-acquisition of British citizenship from the UK Home Office.

Does the minister agree that that anomalous situation is insulting and concerning to someone who has lived and worked here for more than 30 years and has raised his family, had a national insurance number and paid taxes here? Surely this man and others like him, no doubt, already

have a proven right to continue to live in and contribute to Scotland. It is, after all, their home.

Ben Macpherson: I thank Linda Fabiani for raising that specific case. I share her concerns about the situation being insulting and of concern. I am sympathetic towards the many families and individuals who have difficulties navigating the complex and increasingly restrictive UK immigration rules, as illustrated in the case that Linda Fabiani has raised.

It is right that EU citizens who have built their lives here and chosen to make Scotland their home should have all their rights protected. If the UK Government persists in its ambition to remove Scotland from the EU against the will of the Scottish people, it will be vital that those EU citizens who have chosen to make their home here in Scotland are provided through as simple a process as possible with the documentation that they need to evidence their right to continue to live here as they do now.

I would be happy to raise such cases, including the case that Linda Fabiani has raised today, with the UK immigration minister, with the consent of the individuals concerned.

I reassure all MSPs that we in the Scottish Government are pressing the UK Government for a fair and managed immigration system that recognises individual circumstances and provides a welcoming environment for new Scots and their families.

The Deputy Presiding Officer (Christine Grahame): I remind everyone—and I mean everyone—that short questions and crisp answers would be very helpful. In other words, that is what I want.

Neil Findlay (Lothian) (Lab): I welcome the scrapping of the fee for EU citizens. Will the minister now join me in calling for the UK Government to take the next step and end its hostile environment policy and its anti-immigration policies and rhetoric?

Ben Macpherson: Absolutely. I welcome the sentiment of Neil Findlay's question. I wish that we had seen such a coherent position from Labour in the House of Commons earlier this week on the UK Immigration and Social Security Co-ordination (EU Withdrawal) Bill.

The UK Government's hostile environment policy has been discredited in both practice and principle. It should be noted that, since June 2016, the UK Government should have provided assurances to EU citizens separately from any withdrawal agreement; it could have done that in every month up to the current point, but it did not. It should think about that very carefully.

Brexit (Impact on Life Sciences Sector)

2. David Stewart (Highlands and Islands) (Lab): To ask the Scottish Government what assessment it has made of the impact of Brexit on the life sciences sector. (S5O-02820)

The Minister for Europe, Migration and International Development (Ben Macpherson): The Scottish Government has engaged widely across the breadth of the life sciences sector and has also commissioned Ernst & Young to undertake a sectoral impact analysis and Brexit readiness assessment.

That assessment has been shared with the United Kingdom Government as clear evidence of the negative impact that Brexit will have across sectors in Scotland. It also accords with evidence from industry and unions that suggests that Brexit will be damaging to the sector in terms of tariff and non-tariff barriers; supply-chain resilience; legal and regulatory compliance; free movement of people; loss of European Union funding; and disinvestment from foreign investors.

David Stewart: The minister will be well aware that the Highlands and Islands have more than 80 life sciences companies, employing more than 1,800 people. All those companies rely on academic talent from the other 27 nations in the EU.

Does the minister share my view that Brexit is a clear and present danger to the future viability of the life sciences sector in the Highlands and Islands?

Ben Macpherson: David Stewart makes an important point about the detriment from the removal of free movement as a whole—if indeed the UK leaves the EU and Brexit takes place.

To be constructive and in good faith, I encourage David Stewart and colleagues to continue to engage with us, the Scottish Government, so that we can work together to push for flexibility in the UK immigration system by way of a Scottish visa, so that we can support key sectors in our economy, including the life sciences sector.

Kenneth Gibson (Cunninghame North) (SNP): Innovation and research and development are key to the success of our life sciences sector. As the minister knows, a significant number of EU citizens work in R and D. What assistance can the Scottish Government provide to ensure that our competitiveness in R and D is not seriously compromised by Brexit?

Ben Macpherson: There are two respects in which we can all work together proactively to continue to support R and D in the life sciences sector and elsewhere given the challenges posed by Brexit. First, we should continue to oppose the

removal of free movement and the restrictions set out in the UK Government's white paper on immigration. Secondly, we should all collectively work together to urge the UK Government to continue UK participation—as a third partner country in the event of Brexit—in EU programmes such as horizon 2020. Indeed, that is exactly what I pressed for on behalf of Scotland at the joint ministerial council on Europe in London on Monday.

Healthcare (International Arrangements) Bill (Legislative Consent)

3. Alison Harris (Central Scotland) (Con): To ask the Scottish Government whether the Minister for Parliamentary Business and Veterans will provide an update regarding the lodging of the legislative consent motion for the Healthcare (International Arrangements) Bill. (S5O-02821)

The Minister for Parliamentary Business and Veterans (Graeme Dey): The legislative consent motion in question was lodged on Monday 14 January. It was moved by the Cabinet Secretary for Health and Sport on Wednesday 16 January, when it was agreed unanimously by Parliament.

Alison Harris: I thank the minister for that answer, but surely finally giving consent, after months of threats not to, just shows up the Scottish Government's empty bluster and suggests that the right thing to do across all Brexit issues is to work consistently and to dump the grandstanding.

Graeme Dey: Wow. Through its approach to Brexit-related legislation, the Scottish Government has shown itself to be reasonable and pragmatic, but until and unless we can be assured that the decisions of the Parliament will be respected by the United Kingdom Government, we will not lodge legislative consent motions on Brexit-related provisions except in the most exceptional of circumstances. We will continue to contribute fully to committee and parliamentary consideration and will ensure that the Parliament is able to express its views on Brexit-related provisions in UK bills. Overarching all of this is a simple truth: our role as the Scottish Government is to stand up for the interests of Scotland—something that the Conservatives might want to try some time.

UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill (Supreme Court Judgment)

4. Alexander Burnett (Aberdeenshire West) (Con): To ask the Scottish Government what discussions ministers have had with civil servants regarding the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill since the Supreme Court's judgment on it. (S5O-02822)

The Minister for Parliamentary Business and Veterans (Graeme Dey): Scottish ministers regularly discuss matters within their responsibilities with officials. In addition, the Cabinet Secretary for Government Business and Constitutional Relations has held a meeting with representatives of the parties in the Scottish Parliament to discuss the bill and the options for proceeding with it following the Supreme Court judgment.

Alexander Burnett: The original, largely unlawful, bill was pushed through under emergency procedures, which gave MSPs hardly any time to scrutinise the important legislation, whereas the European Union (Withdrawal) Bill was scrutinised for more than 11 months. Will the minister rule out using emergency procedures in that way again?

Graeme Dey: As I have indicated, the decision on how to proceed is the subject of on-going discussions between Mr Russell and the other parties in the Parliament. A meeting took place shortly before Christmas—I think that Mr Tomkins was there—and a further meeting is due to take place later this week. An announcement on how we will proceed self-evidently will be informed by those discussions and will be made in the coming weeks.

To be clear, no matter how many times the Conservatives seek to claim otherwise, the Scottish Government's position on the continuity bill was vindicated by the Supreme Court—no ifs, no buts, no maybes.

Willie Rennie (North East Fife) (LD): Does the minister not think that the answer is to introduce a proper dispute-resolution procedure in areas of common interest? Rather than there being a Scottish or a Westminster veto, surely an acceptance of common endeavour in areas of common interest is the way ahead.

Graeme Dey: As I have indicated, the matter is being discussed among the parties of the Parliament. Each party can genuinely input to the process, so I encourage Mr Rennie to express those points if he so wishes at the next meeting, which I believe will take place tomorrow.

Brexit (Democratic Participation for European Union Citizens)

5. Rona Mackay (Strathkelvin and Bearsden) (SNP): To ask the Scottish Government how it will ensure that EU citizens living in Scotland can maintain democratic participation. (S5O-02823)

The Minister for Europe, Migration and International Development (Ben Macpherson): EU citizens will retain their right to vote and stand in Scottish Parliament and local government elections after Brexit. We previously set out our

intent to protect EU citizens' voting and candidacy rights in Scottish Parliament and local government elections. The programme for government includes a commitment to bring forward an electoral franchise bill, which will extend the franchise to include citizens of all nationalities who are legally resident in Scotland.

Rona Mackay: Several EU citizens in my constituency have been in touch with my office because they are concerned about the United Kingdom Government's EU settlement scheme. Does the minister agree that, as well as being grossly unfair, the system is not fit for purpose, given that the UK Government's settled status scheme app is available only to Android phone users and not to those who use other mobile devices?

Ben Macpherson: Our programme for government for this year has committed to introduce a franchise bill, and we opposed the settled status fee charge. Working with Citizens Advice Scotland, we have set up our advice service to advise and help EU citizens in our communities—who make such a huge contribution—as they go through the settled status scheme.

We are going over and above anything that the UK Government is doing. As Rona Mackay highlighted, there are serious misgivings about the technical and practical delivery of the UK Government's mechanisms for bringing EU citizens through the settled status scheme. We are going further than the UK Government in our efforts to reach out into communities and assist people who have accessibility issues or who are not comfortable using digital technology. Our advice service will provide face-to-face, telephone and online advice, which we hope will make an important difference.

No-deal Brexit (Preparations)

6. Andy Wightman (Lothian) (Green): To ask the Scottish Government whether it will provide an update on the preparations being made by it and its agencies for a potential no-deal Brexit. (S5O-02824)

The Minister for Parliamentary Business and Veterans (Graeme Dey): The Scottish Government remains committed to keeping Parliament informed of our contingency planning for the prospect of exiting the European Union without an agreement. We have repeatedly made it clear that the United Kingdom Government can, and should, take immediate steps to exclude the possibility of a no-deal outcome. Until that happens, as a responsible Government, we will continue to intensify our preparations, which includes work at directorate level on identifying

risks and potential impacts, as well as mitigating actions, across a wide range of issues.

The Scottish Government resilience committee leads on our preparations for a no-deal Brexit. Officials, key agency leads, ministers and a representative from the Convention of Scottish Local Authorities meet each week to assess progress.

Andy Wightman: The minister will be aware that the potential of a no-deal Brexit cannot be removed other than by securing a deal or by revoking article 50. Given last night's vote in the UK Parliament, does the minister agree that a no-deal Brexit is now significantly more likely? In that context, and following Mike Russell's statement in Parliament on 18 December, will the Scottish Government place in the public domain technical notices that cover devolved areas, similar to the 105 notices that were published by the UK Government?

Graeme Dey: By aligning herself with the hardline Brexiteer wing of her party last night, the Prime Minister has brought a no-deal scenario even closer, as Andy Wightman said. While continuing to press the UK Government to see sense and step back from the brink, it is imperative that we continue to plan for the worst. That is entirely necessary and appropriate.

Mr Russell addressed the issue of no-deal planning in a statement that he made a few weeks ago. The Scottish Government is happy to consider how we can continue to update members, and I will take Mr Wightman's point away and discuss it with Mr Russell.

Adam Tomkins (Glasgow) (Con): A meeting is being chaired by the Prime Minister in London today to discuss preparations for a no-deal Brexit. The First Ministers of Wales and Scotland were both invited to attend that meeting. I understand that the First Minister of Wales is there, but the First Minister of Scotland is not. Why not?

Graeme Dey: I find it staggering that, with the horrendous situation that we find ourselves in with Brexit, the Conservatives take this opportunity to make such a point. As Mr Tomkins well knows from his exchanges with Mr Russell in the chamber, Mr Russell is a perfectly adequate—indeed, far more than adequate—representative of the Scottish Government at that meeting.

Brexit (Discussions with United Kingdom Government)

7. Fulton MacGregor (Coatbridge and Chryston) (SNP): To ask the Scottish Government whether it will provide an update on its discussions with the United Kingdom Government regarding Brexit. (S5O-02825)

The Minister for Parliamentary Business and Veterans (Graeme Dey): Last week, the First Minister and the Cabinet Secretary for Government Business and Constitutional Relations met the Prime Minister and the Chancellor of the Duchy of Lancaster to discuss Brexit. The Prime Minister has said that she wants to give the devolved Administrations an enhanced role in the next phase of the Brexit process, but the UK Government continues to ignore the views of the Scottish Government, the votes of this Parliament and, indeed, the 62 per cent vote of the people of Scotland to remain in the EU. With the clock ticking down to exit day, the Prime Minister must start listening to people outside the Conservative Party and the Democratic Unionist Party, abandon her damaging red lines, seek an extension to the article 50 process and immediately rule out a no-deal outcome. *[Interruption.]* I hear Mr Tomkins chuntering from a sedentary position, so I will make just a small point: this Government is getting on with the day job alongside Brexit—unlike the UK Government.

Fulton MacGregor: Last week, the Prime Minister showed that she was running scared of the verdict of the Scottish people. Is it not the case that the mandate for an alternative path for Scotland is cast iron and that the majority of MSPs and Scottish MPs who were returned at the last two general elections support the holding of an independence referendum, which is an option that was endorsed by this Parliament and was in the manifesto on which this Government was elected? Does the Government agree that the people of Scotland should be in charge of their own future and not live at the whim and under the diktat of a hardline, inflexible and out-of-touch Tory Government?

Graeme Dey: As Fulton MacGregor has said, the Scottish Government was elected on a clear mandate that this

"Parliament should have the right to hold another referendum ... if there is a significant and material change in the circumstances that prevailed in 2014, such as Scotland being taken out of the EU against our will."

On 28 March 2017, this Parliament voted in support of an independence referendum in light of Brexit. It has been the Scottish Government's consistent position that we will set out our views on the next steps for a future referendum on independence when there is clarity about the outcome of the Brexit negotiations, but sadly, as we all know, there remains no such clarity, even with time running out before March 2019. What is clear, though, is that Brexit changes everything utterly.

Welsh Government (Meetings)

8. Lewis Macdonald (North East Scotland) (Lab): To ask the Scottish Government when it next plans to meet Welsh Government ministers and what matters will be discussed. (S5O-02826)

The Minister for Parliamentary Business and Veterans (Graeme Dey): The Scottish Government routinely engages with counterparts in the Welsh Government on a range of business at both official and ministerial levels. Last week, the First Minister and the Cabinet Secretary for Government Business and Constitutional Relations met Mark Drakeford to discuss Brexit matters. On 28 January, the Cabinet Secretary for Government Business and Constitutional Relations spoke to Julie James AM concerning electoral law issues. Earlier this week, the Minister for Europe, Migration and International Development met the Welsh Government Counsel General, Jeremy Miles, and, tomorrow, the Lord Advocate and I will both meet Mr Miles ahead of the next meeting of the ministerial forum on European Union negotiations, which will take place in Edinburgh.

Lewis Macdonald: I am grateful for that comprehensive reply. The minister will be aware that Welsh Cabinet ministers recently provided the National Assembly for Wales with a comprehensive analysis of the devastating consequences of a no-deal Brexit for the economy and people of Wales. Further to his reply to Mr Wightman's question, will the minister tell us whether Scottish ministers might be minded to follow that example?

Graeme Dey: We have much in common with our Welsh colleagues. Indeed, I understand that today the Welsh Assembly is uniting behind a motion that considers in detail the impact of a no-deal Brexit—indeed, Brexit itself—and the catastrophe that it would be for Wales. We continue to share much common ground in that respect.

With regard to the point that Lewis Macdonald makes, and as I indicated to Mr Wightman, we are happy to take that request away and consider it. However, it is important that we as a Parliament recognise—as most members do—the catastrophe that a no-deal Brexit would be for Scotland.

The Deputy Presiding Officer: I can take a very brief question and supplementary question from Ms Gilruth; we are still within time.

Brexit (Implications)

9. Jenny Gilruth (Mid Fife and Glenrothes) (SNP): To ask the Scottish Government what the implications of Brexit are for Scotland, which voted

62 per cent to remain in the European Union. (S5O-02827)

The Deputy Presiding Officer: Very briefly, minister.

The Minister for Parliamentary Business and Veterans (Graeme Dey): The implications of Brexit for Scotland are extremely alarming, as the Scottish Government has detailed and as the Parliament understands. All Brexit outcomes will be bad for Scotland, but the Prime Minister is now running down the clock to the most damaging of exits.

The Deputy Presiding Officer: Very briefly, Ms Gilruth.

Jenny Gilruth: Given that, last night, the Tories and the Democratic Unionist Party voted to reopen the withdrawal agreement and amend the Northern Irish backstop, and that the European Union has categorically stated that the withdrawal agreement is not open for renegotiation, does the minister agree that pursuing the impossible is simply running down the clock and risks no deal at the behest of Tory Brexiteers—

The Deputy Presiding Officer: That is fine. That is brief enough.

Jenny Gilruth: —which would be a woeful abdication of responsibility—

The Deputy Presiding Officer: No, no, no.

Jenny Gilruth: —by the United Kingdom Government?

Graeme Dey: I agree with Ms Gilruth. Last night, a majority of the MPs who represent Scotland voted to extend article 50, to rule out a no-deal Brexit and to respect the overwhelming vote in Scotland to remain in the EU. The UK Government has decided, once again, to ignore Scotland's democratic voice. The Scottish Government, however, will continue to do all that it can to protect Scotland's interests. We urge the Prime Minister to extend the article 50 process to avoid the disaster of no deal.

Culture, Tourism and External Affairs

United Kingdom Immigration Policy (Impact on Working Population)

1. Maureen Watt (Aberdeen South and North Kincardine) (SNP): To ask the Scottish Government what impact UK Government immigration policy is having on Scotland's working population. (S5O-02829)

The Minister for Europe, Migration and International Development (Ben Macpherson): Migration is vital to Scotland's population growth. Each year for the next 25 years, all of Scotland's

population growth is projected to come from migration.

The United Kingdom Government's commitment to cut net migration to the tens of thousands could therefore seriously harm our economy. If that commitment is implemented, Scotland's working age population is projected to decline by 4.5 per cent, which would mean a reduction of 150,000 people between 2016 and 2041.

A Brexit-driven reduction in migration would see gross domestic product in Scotland drop by an estimated 6.2 per cent by 2040, which would be equivalent to a fall of almost £6.8 billion a year in GDP and £2 billion in Government revenue. That is an unacceptable price for Scotland to pay, which is why we need a migration policy that is tailored to Scotland's needs and more powers for the Scottish Parliament.

Maureen Watt: An NHS Grampian survey that was recently presented to the Aberdeen city health and social care partnership states that not only staffing but medical supplies, access to treatment, regulations and cross-border issues are areas of high risk due to Brexit. That is compounded by the Home Office's stubborn refusal to engage with MSPs and our offices. Does the minister agree that the Home Office should stop treating MSPs and members of other devolved Parliaments like second-class representatives and start engaging with us to resolve immigration cases as soon as possible? Does he agree that it is time that the Westminster Government stopped using European Union nationals and others as pawns in its games?

The Deputy Presiding Officer: No, Ms Watt. It was a good point but it was not brief enough. I am getting tetchy.

Ben Macpherson: Brexit could indeed have significant impacts on health and social care in Scotland, with potentially serious consequences for the recruitment and retention of health and social care workers. As Maureen Watt said, Brexit also raises concerns in areas such as medicines, medical devices, clinical trials, access to future EU funding and the rights of Scottish citizens to access state-provided healthcare across the EU.

On correspondence, MSPs are understandably concerned about those issues and the impact that they have on their constituents. I have met the UK Minister of State for Immigration, Caroline Nokes, several times to highlight the Scottish Government's concerns and reiterate our willingness to work collaboratively to safeguard the interests of EU citizens in Scotland. However, despite committing to meaningful engagement, the Home Office continues to refuse to deal substantively with the concerns of the Scottish

ministers and MSPs on immigration cases. That is completely unacceptable.

The UK Government has repeatedly committed—publicly and privately—to the full involvement of the devolved Administrations. Unfortunately, I have thus far been frustrated by the quality of that engagement. Nevertheless, the Scottish Government is clear that it will do all that it can to support EU citizens through this difficult time. As Minister for Europe, Migration and International Development, I am happy to receive correspondence from MSPs and to write to the UK Government, minister to minister, as I have done for MSPs across the chamber.

The Deputy Presiding Officer: Willie Rennie, briefly.

Willie Rennie (North East Fife) (LD): I also have concerns about the immigration policy. Sectors such as the fruit and veg farms in my constituency, universities and the tourism industry are already being impacted by a drop in the number of workers in Scotland.

I do not support the devolution of immigration policy, as these problems are not unique to Scotland. What practical steps has the minister taken to influence UK Government policy?

Ben Macpherson: Just under a year ago, the Cabinet Secretary for Culture, Tourism and External Affairs, Fiona Hyslop, presented to the Scottish Parliament our substantial paper on how we can take practical steps and seek to influence UK policy. We have written repeatedly to UK Government ministers about our concerns about the Migration Advisory Committee report and the white paper, and we have raised those concerns in person. We will make a submission to the Migration Advisory Committee consultation on the shortage occupation list. We are working across every area of the Government to influence UK Government policy, and we are working with stakeholders across business who are deeply concerned about what is in the white paper, particularly the proposed salary threshold.

I say to Willie Rennie in good faith that we are proposing flexibility in the UK system by taking a solution-focused approach in response to what is being proposed in the UK Government's white paper. Willie Rennie said that in his constituency—this is the case for many constituencies across Scotland—key sectors will be affected by what the UK Government's white paper proposes. I ask Willie Rennie to meet me and engage with us as a Government. Together, let us be solution focused for the benefit of his constituents and the common good of Scotland.

Robert Burns (Legacy)

2. **Colin Smyth (South Scotland) (Lab):** To ask the Scottish Government what it is doing to maximise the benefits of Robert Burns's legacy in the South Scotland region. (S5O-02830)

The Minister for Europe, Migration and International Development (Ben Macpherson): The Scottish Government wants to maximise the social, cultural and economic benefits of Robert Burns's rich legacy for the whole of Scotland. Through EventScotland, we provided £30,000 to the big Burns supper in Dumfries as part of Scotland's winter festivals.

As part of that work, we commissioned the centre for Robert Burns studies at the University of Glasgow to produce a report, which will help us to understand the impact of Burns on the Scottish economy and associated prospects for driving inclusive growth. We expect that the report's findings will help to ensure that Burns's enduring legacy can help to accrue benefit for Ayrshire, Dumfries, the wider South Scotland region and the country as a whole.

Colin Smyth: I thank the minister for that answer, and I highly recommend the big Burns supper to all members. It runs until Sunday.

The minister will be familiar with Ellisland farm, the family home that was built by Burns in 1788. The future of Ellisland is at a crossroads and the trustees have developed proposals to save it and transform it into a major attraction. Will the minister take the opportunity to find out more about the exciting proposals and meet the trustees to discuss how the Scottish Government could assist in delivering a viable, long-term future for Ellisland farm?

Ben Macpherson: I understand that representatives of Ellisland have met Historic Environment Scotland officials to discuss the trust's plans for developing Ellisland. If they have not done so already, I encourage them to continue their dialogue to ensure that such a vital part of Scotland's history and heritage is preserved for future generations.

The Deputy Presiding Officer: I will take supplementaries from Finlay Carson and Joan McAlpine, but they must be brief.

Finlay Carson (Galloway and West Dumfries) (Con): As the Presiding Officer will know, the south-west 300 is a stunning 300-mile drive with awesome coastlines, hills, glens, forests and lochs and abundant history, and it rivals the much-publicised north coast 500. The Burns country run is a 160-mile showcase of the many locations associated with Burns. Those routes have huge tourist potential—

The Deputy Presiding Officer: No. That is not brief. Get your question in.

Finlay Carson: What will the Scottish Government do to quantify that potential and what support will it give to the Burns route?

Ben Macpherson: The Scottish Government is committed to investment in tourism in the south of Scotland. For example, there has been a £0.5 million VisitScotland marketing campaign, £0.5 million south of Scotland capital funding and £2.5 million for the development of facilities in Galashiels, as well as investment in the David Livingstone centre in Blantyre.

I thank Finlay Carson for raising the point about the proposed route and would be happy to receive more detail about that, if he would like to provide it in writing.

Joan McAlpine (South Scotland) (SNP): Will the minister join me in welcoming the purchase of the historic Globe Inn—one of the bard's favourite howffs—in Dumfries by Professor David Thomson and his wife Teresa Church, who own Annandale Distillery? I am delighted to report that their investment in the historic inn was apparent during the big Burns supper. I invite the minister and the cabinet secretary to take the opportunity to visit again in the near future.

Ben Macpherson: I welcome the investment that has been made and I congratulate all who are involved. I would be happy to receive an invitation as part of our planning for next year's winter festivals, and I thank the member for that offer.

External Affairs (Budget Increase)

3. **Adam Tomkins (Glasgow) (Con):** To ask the Scottish Government for what reason its external affairs budget increased by 52 per cent from 2017-18 to 2019-20. (S5O-02831)

The Cabinet Secretary for Culture, Tourism and External Affairs (Fiona Hyslop): Between 2017-18 and 2018-19, the external affairs budget increased by £1.5 million to support our expanded external presence in Brussels, Canada and Paris.

The increase of £6.7 million in the 2019-20 draft budget is due entirely to a change in the way in which running costs, including staffing costs, are presented across the Scottish Government. Those were previously presented separately, but are now included in ministerial portfolios, at the request of Parliament and its Finance and the Constitution Committee, for transparency. There is therefore no net increase in this year's—2019-20—resource available for spending on external affairs.

Adam Tomkins: Reserved matters are excluded from the devolved competence of the Scottish ministers. The reservation is

“particularly important in the case of ... international relations”.

So ruled the Supreme Court in its unanimous judgment a month ago in the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill case. What legal advice has the cabinet secretary taken to ensure that the increased budget is lawful?

Fiona Hyslop: The Supreme Court judgment does not affect the Scottish Government’s ability, or determination, to prepare for European Union exit or to continue its international work. Indeed, the United Kingdom Government, through a variety of agreements with us, understands and supports our international work. It is extremely small-minded of the Conservatives to think about limiting our ability to help our universities, tourism sector and trade and economic activities by saying that everything has to be done within the confines of Scotland. It is about time that they broadened their horizons, as this Government has done, and will continue to do, in its activities. Adam Tomkins needs to be clear that the Supreme Court judgment does not affect our ability to carry out our duties and functions as good internationalists and good global citizens.

Airbnb (Meetings)

4. **Anas Sarwar (Glasgow) (Lab):** To ask the Scottish Government when it last met Airbnb and what issues were discussed. (S5O-02832)

The Cabinet Secretary for Culture, Tourism and External Affairs (Fiona Hyslop): Scottish Government officials last met Airbnb on 29 November 2018. At the meeting, regulation of short-term lets, including the stage 2 amendment to the Planning (Scotland) Bill regarding short-term holiday lets, was discussed. A note of the meeting, which was redacted to remove personal details, with notes of other meetings with Airbnb, was published recently in response to a freedom of information request, and is available on the Scottish Government website.

Anas Sarwar: Recent evidence that was released by the Scottish Government revealed that there were 2,200 Airbnb listings in Glasgow in July 2017, which was a 45 per cent increase on the previous year. Shelter Scotland has expressed concern that short-term lets might be exacerbating the housing crisis. Does the Scottish Government share that concern? What action is it taking to ensure that Glasgow’s tourism industry is sustainable and delivers for local communities?

Fiona Hyslop: Anas Sarwar has raised a very important point. Sustainability for both tourism and the housing market is really important. That is why there is a debate about short-term lets in relation to the Planning (Scotland) Bill and housing

legislation. The short-term lets delivery group is engaging with local authorities. I am sure that it is doing that with Glasgow City Council, but I will make sure that the Glasgow situation is brought to its attention so that it can engage.

I understand that Glasgow City Council regulations that were introduced in March 2017 have had an impact. Local authorities already have relevant powers, but there has to be an integrated look at the overall picture and the housing market. It is a matter in which we will all take a keen interest.

The Deputy Presiding Officer: Question 5 has not been lodged.

Festivals (Support)

6. **Clare Adamson (Motherwell and Wishaw) (SNP):** To ask the Scottish Government what it is doing to support Scotland’s festivals in 2019-20. (S5O-02834)

The Cabinet Secretary for Culture, Tourism and External Affairs (Fiona Hyslop): Scotland is the proud home of a fusion of cultures, arts and creativity that enrich us all with festivals and events. I am sure that everyone will want to join me today in congratulating the Imagine festival on its 30th anniversary.

Visit Scotland will invest more than £3 million across 109 cultural events and festivals in this financial year, and Creative Scotland provided £485,000 to 18 festivals around Scotland in 2018. The Scottish Government’s expo fund has supported the Edinburgh festivals with more than £21 million since 2008, and current applications are being considered. Between 2018 and 2023, £5 million through the platform for excellence programme will support strategic projects across the internationally acclaimed Edinburgh festivals, as part of the Edinburgh and south-east Scotland city region deal.

The Deputy Presiding Officer: I ask Clare Adamson to be brief, please.

Clare Adamson: Donald Shaw is a leading figure behind Celtic Connections, which is one of Scotland’s foremost music festivals, and he recently warned that the added bureaucracy that will be required to book United Kingdom musicians in European Union member states following Brexit will put Scottish musicians at a disadvantage. He also predicted new problems for musicians coming to Scotland. Does the Scottish Government share my concern about the detrimental impact of Brexit on the Scottish music sector?

Fiona Hyslop: Celtic Connections is a hugely and truly international festival. For the first time, it has received £100,000 of festivals expo funding. It is welcoming to musicians—they want to come

here. However, the UK's immigration white paper will drive a coach and horses through our music industry, unless changes can be made to ensure that there is no bureaucracy around visas. There is also an issue in respect of festivals elsewhere wanting to book our musicians. We want to ensure that we remain a welcoming and inclusive country. That extends to everyone, including the many musicians who come here.

When senior and leading figures in our culture sector warn us of the consequences of Brexit, which would be absolutely compounded by a no-deal Brexit—the prospect of which was accelerated by the farcical activity at Westminster last night—we have to take them extremely seriously.

The Deputy Presiding Officer: I call Claire Baker. Be very brief, please, Ms Baker.

Claire Baker (Mid Scotland and Fife) (Lab): The cabinet secretary will be aware of recent reports of exploitative working practices in some major festivals. Will she commit to frank discussions with festival organisers and relevant companies to ensure that that is not tolerated in the sector?

Fiona Hyslop: Claire Baker has made an important point. I have already been in touch with some festivals. It is important that anyone who is in receipt of public money embraces the fair work agenda. I think that everyone in the sector would want that. We just need to ensure that those who are responsible act in accordance with what I believe is their commitment to address the issue.

Tourism (Ireland and Scotland)

7. John Scott (Ayr) (Con): To ask the Scottish Government what it is doing to support tourism, including business tourism, between Ireland and Scotland. (S5O-02835)

The Cabinet Secretary for Culture, Tourism and External Affairs (Fiona Hyslop): Our national tourism agency, VisitScotland, actively promotes Scotland to visitors from Ireland, which is our sixth-largest tourism market, and undertakes a large range of marketing activities. Business tourism is just one of the many reasons why Irish visitors come to Scotland, with the majority coming to visit family members.

Last week in Dublin I met business and university interests to discuss Scottish and Irish connections and collaborative working, and spoke to several tourism businesses that are interested in Scottish investment. I add that, if those matters were left to Mr Scott's colleague, Adam Tomkins, none of that would be happening.

John Scott: The cabinet secretary will be aware that the First Minister announced at a Scottish

Chambers of Commerce dinner in December that £2 million of new funding will be given to that organisation over the next three years to promote business tourism and business development through local chambers of commerce. Can the cabinet secretary tell Parliament, my constituents and the Ayrshire Chamber of Commerce and Industry when that money might be available? It is keen to strengthen and to grow already established trade—in particular, tourism links with Ireland.

Fiona Hyslop: I am delighted that the Scottish Chambers of Commerce is working internally and with the Scottish Government to encourage business tourism. Its links in key sectors and the collaboration work that it does will be great advantages in attracting business conferences and other activity to Scotland.

On spending, I point out that we are facing a budget vote shortly, and that if John Scott wants us to expand investment in chambers of commerce, exports or anything else in the area that he is asking about, supporting the budget will be one way of ensuring that that happens.

Brexit (Impact on Arts and Creative Sector)

8. Sandra White (Glasgow Kelvin) (SNP): To ask the Scottish Government what analysis the Cabinet Secretary for Culture, Tourism and External Affairs has carried out regarding the impact of Brexit on the arts and creative sector in Scotland. (S5O-02836)

The Cabinet Secretary for Culture, Tourism and External Affairs (Fiona Hyslop): Leaving the European Union will have significant and wide-ranging negative impacts on Scotland's culture and creative sectors, including on access to funding, trade, our ability to work internationally and our ability to access skills and talent.

Those impacts have been highlighted consistently in analyses that have been undertaken by sectoral organisations and by the Scottish Government, including a recent Ernst & Young report. Its analysis, which built on previous analysis that has been undertaken across Scottish public bodies in the sector, found that EU funding of at least £59 million was received by Scottish cultural organisations over the period from 2007 to 2016, which demonstrates the importance of EU funding to the sector.

Sandra White: On Saturday, I attended a Celtic Connections event that was organised by BEMIS to celebrate the diversity of culture in Scotland and throughout Europe. The implication in the cabinet secretary's answer is that we could lose such international cultural events. Does she agree that that would be a great loss to Glasgow and to Scotland, culturally and financially?

The Deputy Presiding Officer: A brief answer, please.

Fiona Hyslop: BEMIS's association with Celtic Connections has been a great success in recent years. A lot of the funding comes from the Scottish Government, through our winter festivals funding. However, Donald Shaw, who is the artistic director of Celtic Connections, has made it clear that there are events that would not have taken place had there not been collaboration on EU funding opportunities.

This matters. We must remain an outward-looking country. We have to welcome and celebrate musicians, artists and others. What better way to do so than at the wonderful Celtic Connections? The festival still has a while to go, so I encourage any members who have not done so to buy a ticket and to take part and support our artists.

The Deputy Presiding Officer: That concludes portfolio questions. I apologise to Willie Coffey and Mark Griffin for failing to reach their questions, try though I did.

Education (Presumption to Mainstream)

The Deputy Presiding Officer (Christine Grahame): The next item of business is a debate on motion S5M-15607, in the name of Liz Smith, on the presumption to mainstream.

14:41

Liz Smith (Mid Scotland and Fife) (Con): Let me open this debate with a recognition of and agreement with the Organisation for Economic Co-operation and Development, which in 2012 stated unequivocally that the principle of inclusion is one of the great strengths of Scottish education. Let me also say that the Scottish Conservatives believe that the presumption to mainstream is part of that inclusive approach and that, for the majority of young people in Scottish schools and their teachers, it has brought rich reward in pupils' educational and social experiences.

Participation in school is not just about what goes on in the classroom and there are powerful arguments on why a young person's presence in mainstream provision can be an enriching experience, through the development of friendships, the development of wider skills and participation in extra-curricular activity.

However, "inclusion" must never be taken to mean exactly the same thing as "mainstreaming". A young person who attends a special school, in some cases away from home, might find him or herself in a very inclusive setting, in which they are much better able to achieve their potential than they would have been in a mainstream school.

The reverse is true, too. As the Education and Skills Committee said in its 2017 report, "How is Additional Support for Learning working in practice?" there are many young people in mainstream schools who do not feel particularly well included. We need to be very careful about the language that we employ.

There is no denying that for a growing number of young people mainstream schooling is not appropriate, because it is not delivering what is best for their educational and social needs. The Scottish Government itself acknowledged that when it commissioned the Doran review. The review report, which was published in 2012, was critical of the standard of education for some young people with additional support needs, mainly because of a lack of training for teachers that enabled them to understand and cater for the needs of young people who required additional support.

One of the great successes of the Education (Additional Support for Learning) (Scotland) Act

2009 was the significant improvement in the identification of additional support needs pupils. Thanks to that better identification, the number of ASN young people has doubled since 2011. However, the number of special schools has declined—by 31 per cent since 2008—and the number of specialist teachers, including psychologists and psychiatrists, has declined by 9 per cent.

Twenty-four per cent of all primary school-age children are now identified as having some form of additional support need, and the rate for secondary school-age children is 29 per cent. Although the majority of those young people can flourish in mainstream schools, for a significant minority that is not the case. Sixty per cent of teachers tell us that young people are frequently being educated in mainstream schools when alternative provision would meet their educational needs much better.

In other words, we have seen a significant rise in demand for specialist education but, as things stand, that demand cannot be fully met. On these benches, we believe that that is one of the greatest challenges that we face in Scottish education, one which is very high on the list of teachers' present concerns in both primary and secondary sectors, and about which many parents and charitable foundations are deeply concerned. It is for exactly those reasons that we wanted this debate. It is vital to pay attention to what teachers are saying. Many are very clear that in some ways the current situation is inhibiting their ability to deliver top-quality teaching and pastoral care, not only to many young people with additional support needs, but also to many other young people who are in classes in which, despite the best intentions of the teacher, they are not receiving the same amount of teaching time as before. In some cases, there is the accompanying discipline issue, which parents, teachers and young people naturally find a huge worry.

That was partly why the Education and Skills Committee report of 2017 made it clear that there are many young people who feel more excluded in mainstream schooling than they would do in special school, which of course runs slightly counter to what the 2009 act actually said. However, we should not forget that the first quasi-legal criterion that permits exemption from mainstream schooling is that

“it would not be suited to the ability or aptitude of the child”.

What do we have to do? Let us be very aware that the current financial circumstances make it extremely difficult to find new additional resources. I am sure that we can all agree that it would be nice to add perhaps another 1,000 specialist teachers to the workforce, but we have to accept that for the time being that is not practical. Local

authority budgets are so tight, and we know that the Scottish National Party cuts to teacher numbers over many years have included a number of classroom assistants who were previously assisting with the support of our most vulnerable children.

Let us also be clear that there are already some additional resources within the system. The cabinet secretary admitted just two weeks ago at the Education and Skills Committee that there is an underspend on the attainment fund, with money sitting waiting for schools to use it. We know from the early experience of pupil equity funding, which all of us across this chamber support, that many headteachers are keen to do more if they can employ additional teachers in that area.

We know that there are special schools and some specialist units that have available places. For example, we know that in Edinburgh, the Royal Blind school and Donaldson's school feel that their specialist resources are underused, and I have knowledge of another couple of special schools that would be able to take more young people.

I want to say something about the importance of ensuring maximum access to staff who have expertise in ASN work. In doing so, I pick up a comment from the “Residential Child Care Qualification” report of 2012, in which the importance of professional qualifications was discussed. Those are all very important in terms of ensuring that there is additional quality within staffing. There was widespread recognition of the need for a qualification-based profession, but there is also real concern that the narrow focus on the level 9 degree award is putting in place restrictions that are, first, causing some potentially excellent recruits to the profession to be excluded and, secondly, placing considerable financial burdens on retraining existing staff. That issue has arisen in nursery and child care provision, but it is also an issue in some of the smaller specialist schools and it is threatening the viability of some of those institutions.

The approach of local authorities is key to the debate. It is easy to understand why, as a result of financial pressures, they are reluctant to place a young person in a special school, even if they believe that that young person would benefit hugely from being there. I and every member in this chamber can certainly cite several examples from casework in which a local authority has sought to continue to mainstream a young person when the parents and specialist professionals have advised otherwise. Specialist care means the provision of specialist services, and if it is not always possible to ensure that those can be provided in every single local authority, then we

must ensure that there are accessible facilities elsewhere.

Part of the equation is teacher training. It is not that long ago since the Education and Skills Committee took evidence from trainee and probationer teachers and we got exactly the same message, that much more has to be done in teacher training courses to assist all teachers to better understand their responsibilities when it comes to young people and their special needs. I hope that the General Teaching Council for Scotland and the teacher training schools can be helpful in that regard.

No one pretends that this is easy, but we do not believe that the current situation can continue if we are to serve the best interests of every child.

I move,

That the Parliament notes the comments made by the OECD that inclusion is one of the key strengths of the Scottish education system; believes that the presumption to mainstream pupils has laudable intentions and that it works well for the majority of young people in Scotland's schools; recognises however the very considerable concern that has been expressed by many teachers, teaching assistants, children's charities and parent's groups that a growing number of young people with special educational needs are not being well served by being placed in inclusive mainstream education; believes that this is putting additional pressures on teachers and young people in classrooms across Scotland, making it more difficult to support the individual needs of each child, and, in light of the recent evidence presented to Parliament, calls on the Scottish Government to work with local government partners to review the presumption to mainstream policy to ensure there can be more effective uptake of the provision of places in special schools and specialist units and utilisation of specialist staff.

14:50

The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney): I recognise that this welcome debate allows the Government to reaffirm—I am glad to hear this reaffirmed by the Conservative Party—that all children and young people must receive the support that they need to enable them to achieve their full potential.

We are clear that all children and young people should learn in the environment that best suits their needs, whether that is in a mainstream or special school setting. The judgment about what is an appropriate learning environment for each individual should be taken based on their needs and circumstances, and that is the foundation of statute in this area.

This Government's defining mission is delivering excellence and equity in Scottish education. Equity for all can be achieved only through an inclusive education system. Scotland's inclusive approach celebrates diversity and allows children and young

people to develop an understanding and recognition of differences. That contributes to the development of an increasingly inclusive, compassionate and equal society.

Our inclusive approach is recognised as a key strength of our education system. The 2007 OECD report "Reviews of National Policies for Education: Quality and Equity of Schooling in Scotland" recognised that:

"Scotland ... has one of the most equitable school systems in the OECD."

We are clear in our expectations that all children and young people should reach their full potential in that environment. That is achieved through a framework of legislation and policy that sets the expectation of equity and excellence for all.

Our system focuses on overcoming barriers to learning, and it is that approach that makes Scotland stand out. The approach is well regarded across Europe and it has been adopted by a number of other countries.

A cornerstone of our inclusive approach is the presumption of mainstreaming for those with additional support needs. That approach is reaffirmed in my amendment. We know that significant numbers of children and young people and their families have benefited from that inclusive approach. More than 192,240 pupils are benefiting from spending some or all of their time in mainstream education. Inclusion is a fundamental aspect of Scottish education and ensures that all children and young people can recognise and appreciate diversity as part of everyday life.

Our approach recognises that a child or young person's ability to learn effectively may be impacted in many different ways, from disability or health needs to family circumstances, the learning environment or social and emotional factors. Our focus is that children and young people should receive the support that they need, when they need it. The range of factors that may affect a young person's ability to learn must be reflected in the educational support that is delivered for each young person based on the assessment of their needs.

We have made extensive policy and legislative changes over the past 15 years to enable those with additional support needs to thrive as part of their class, their school and their wider community. We must continue to make sure that all our children and young people feel included and can participate and achieve their full potential.

Liz Smith: I could not agree more. I think that the Scottish Government has done quite a lot, but given that we have additional capacity in many of the special schools and units, what else can the

Scottish Government do to encourage local authorities to take up those places?

The Deputy Presiding Officer: Before you respond, cabinet secretary, I highlight that there is time for interventions. Members who take an intervention will get their time back.

John Swinney: Liz Smith makes a very fair point. The judgment about whether to utilise capacity in any special school environment must be driven by the assessment of the needs of a young person. By statute, that matter is for a local authority to take forward. My point is that the statutory framework is there, so the question that local authorities must wrestle with, in dialogue with families, is what the most appropriate learning environment is for an individual child.

Sometimes—Liz Smith knows that I am familiar with such situations—that can be a matter of dispute between a local authority and a family, in which the family considers that the local authority's proposals for the child's learning environment are not appropriate. Ultimately, there are tribunal arrangements that can reconcile some such differences, but I would encourage—as does Government policy—good, active, participative dialogue with families to try to ensure that the educational provision that is made available for young people is appropriate. In certain circumstances, that will involve a reference to a special school.

Since I became Cabinet Secretary for Education and Skills, I have spent quite a bit of time visiting all the special schools in Scotland to see at first hand—because of the implications of the Doran review—the precise nature and character of the services and support that they provide, and I commend them for the work that they do. However, fundamentally, judgments on what should be the appropriate educational environments for young people rest with local authorities in dialogue with families.

In Scotland we have a system that is much admired and in which there is much to be proud of. However, I would be the first to accept that no system is entirely perfect. I am very committed to ensuring that children in our education system receive the support that they need, when they need it. We have appreciated and valued the input to this discussion from the Education and Skills Committee. We will continue to work to ensure that children's and young people's needs are identified and met. We will also do all that we can to ensure that those who provide support directly to children and young people have the skills and knowledge to enable them to do so in the most appropriate way. That includes the importance that is attached to initial teacher education, which must reflect those challenges.

More needs to be done to advance many of those questions and to assure ourselves, within the context of reaffirming the principle of mainstreaming, that all that needs to be done is being done. We are looking to further support implementation of additional support for learning. The programme for government sets out our commitment to work with local government towards improving consistency of support across Scotland, through improved guidance, building further capacity to deliver effective additional support, and improving career pathways and professional development, including new training and resources for school staff on inclusive practices.

I am very pleased to consider a review of the implementation of additional support for learning, including where children learn. If we take a collaborative approach and work with local authorities and the third sector, I believe that we can create a Scotland in which our education system can match up to our aspirations and ensure—

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): Will the cabinet secretary take an intervention?

The Deputy Presiding Officer: The cabinet secretary is—at this very moment—about to conclude.

John Swinney: Well, if I had not been about to conclude, I certainly am now. [*Laughter.*]

The Deputy Presiding Officer: I put that very nicely.

John Swinney: I will very happily give way to Rachael Hamilton in my closing remarks.

I know that the commitment to inclusive education is shared across the chamber. We must improve experiences for all and ensure that we are getting it right for every child. I hope that the next steps that I have set out today will help to take us further on our journey—

The Deputy Presiding Officer: Actually, I meant that you should finish, cabinet secretary.

John Swinney: —towards delivering inclusive education in practice for all children and young people in Scotland.

I move amendment S5M-15607.2, to insert at end:

“; agrees that this review should be founded on a continuing commitment to a presumption to mainstream and on the need to ensure that children and young people's additional support needs are met, to enable them to reach their full potential, from within whichever learning provision best suits their learning needs, and notes the forthcoming publication of revised guidance, tools and advice for school staff, and national research, on the experiences of children and young people with additional support needs.”

The Deputy Presiding Officer: Thank you. I have some time in hand, but it is not an enormous amount.

14:58

Iain Gray (East Lothian) (Lab): I have previously explained to the chamber that I am committed to the presumption of mainstreaming through not just ideology but experience. Many years ago, when I taught in Gracemount high school, it was co-located with what was then Kaimes school for the visually impaired. The purpose of that was to ensure that Kaimes students could spend a significant part of their school week in mainstream classes in the high school. It worked extremely well. We had small, practical class sizes of around 12 to 14 students, perhaps two of whom were from Kaimes school, often with specialist support from there. That set-up worked extremely well and was very inclusive. Therefore, I have seen mainstreaming work.

Unfortunately, however, I have also seen it fail. In the late 1970s and early 1980s, budgetary pressure began to bite. Then we found ourselves with full classes of more than 20 students for science, with perhaps four or five students from Kaimes school but no additional support teacher with them. They did not get the education that they were entitled to. In essence, they were parked at the back of the class and—I admit it—ignored.

Children being educated in their local school is very much the right policy for them and their educational experience, for parents and for other children in the school, whose educational experience is enriched. As the cabinet secretary said, it is also the right policy for society in building a compassionate, fair and equitable society. However, without resources and specialist expertise—as Liz Smith said, that sometimes means specialist provision—it is not really a policy at all. In fact, it is rather a con or a fraud on those children and their parents, as the approach was for children who came from across the Lothians to attend Kaimes school and went to Gracemount high school, where they did not receive the support that they were entitled to.

We have the policy of a presumption to mainstream, but the question is, do we have the resources? It is clear that the answer to that question is that we do not. Year-on-year cuts to local government have taken their toll, as Liz Smith said. As she also pointed out, since 2012, we have seen a 68 per cent increase in the number of pupils being identified as having additional support needs and 500 fewer trained ASN teachers over the same period.

Mainstreaming can still be great. Only a week or so ago, I visited the Royal Blind school to talk

about the gloriously named ELVIS—the East Lothian vision impairment service—whose staff work with some 56 children in mainstream education in East Lothian. That is a great scheme, but East Lothian Council is the only local authority in Scotland that uses expertise in that way. As Liz Smith suggested, there are now only 28 pupils at the Royal Blind school. There are more than 4,000 children with visual impairment across Scotland, and I simply do not believe that those pupils are all the pupils who could benefit from the expertise there.

It is not just about those with visual impairments, of course. Not very long ago, we considered “Not included, not engaged, not involved: A report on the experiences of autistic children missing school”. I know that the cabinet secretary is seriously considering that report, which talks about there being too many children with autism for whom mainstreaming turns into not a rich educational experience but, rather, a cycle of part-time schooling and informal, and then perhaps formal, exclusion. That is not good enough.

The Deputy Presiding Officer: I am afraid that you must conclude, Mr Gray.

Iain Gray: In our view, the Tory motion is not committed enough to mainstreaming. The Government’s amendment corrects that, and we will support it. However, neither says enough about the importance of resources, so we will press our amendment.

I move amendment S5M-15607.1, to leave out from “has laudable intentions” to end and insert:

“is the correct approach and that it works well for the majority of young people in Scotland’s schools; recognises the very considerable concern that has been expressed by many teachers, school support staff, children’s charities and parents organisations that a growing number of young people with special educational needs are not being well served by being placed in inclusive mainstream education without the resources and staffing required to meet their needs as a result of reductions in local authority budgets; believes that this is putting additional pressures on teachers and young people in classrooms across Scotland, making it more difficult to support the individual needs of each child, and calls on the Scottish Government, in light of the recent evidence presented to Parliament, to work with local authority partners to ensure that every child who requires additional support has their needs assessed quickly and effectively, with the requisite support provided, while additionally ensuring that there can be more effective provision of places in special schools and specialist units where that is assessed as appropriate.”

15:03

Alex Cole-Hamilton (Edinburgh Western) (LD): I declare an interest in that my wife heads up the support for learning in a primary school in Edinburgh and I was extensively involved in the work towards the Education (Additional Support

for Learning) (Scotland) Act 2004 and its implementation.

There is a line in the 2004 act that, for me, is one of the most elegant pieces of prose in any statute that the Parliament has passed. It says:

“A child or young person has additional support needs for the purposes of this Act where, for whatever reason, the child or young person is, or is likely to be, unable without the provision of additional support to benefit from school education”.

The catch-all intent of “for whatever reason” captures the universal and inalienable right to education.

Although that is very much the will of all members, the picture is becoming bleaker. We have 500 fewer teachers with additional support needs training than we had in 2012, and a third of parents who have a child with additional support needs have stated that their child has been unlawfully expelled. In my constituency, on a weekly basis, I come upon parents who have children with complex needs in the classroom who find that they do not receive support. In some cases, they have offered to privately fund the support and have been turned away because of a policy that does not exist: teachers say that they have too many adults in the classroom.

There is definitely a disconnect between the good will that is expressed in the policies that we have agreed and the debates that we have had in the chamber and something happening on the ground. We see that in the metrics, because there is a four-times higher exclusion rate in the additional support needs population in schools although additional support for learning attracts only about 12 per cent of the overall spend in education. There are broken lines of communication and, in some cases, siloed working.

I am reminded, in particular, of the case of the Muir family, who have given me permission to use their family name. I helped them to lodge a section 70 complaint about the fact that there had been an element of drift with regard to their child, who has autism but was not receiving the support that he needed and was very disruptive in class. Nothing was really done to help him until he had reached the age of 16, at which age the state no longer had an obligation to provide his education.

Getting support to such kids can be a problem, and it starts with identification. As we know, there are huge delays in the diagnostic process and also huge delays in things such as section 23 assessments. On diagnosis, families go back to the end of another long queue to ascertain the level of support that the local authority might be prepared to provide. There is also a huge failure in identifying hidden additional support needs, such

as among looked-after young people who exhibit attachment disorder, trauma and loss. Their behaviour is often not managed as it should be. In addition, many young carers are not aware of their own additional support needs, beyond the needs of their families.

The picture is bleak. For example, 78 per cent of teachers who were surveyed by the Educational Institute of Scotland said that there is not enough ASN provision. One teacher said on a prominent education blog:

“I feel inclusion is a massive stick to beat me with. Teacher training never prepared me for this.”

That does not speak to whether the policy is right or wrong; it just says that we are not implementing it as we should do with the right resources. The concept is not wrong; universalism is important, because education is a right, regardless of capacity or communication skills. Integration is a social leveller and it can be very therapeutic, but it needs to be backed up with proper training and resources.

The Deputy Presiding Officer: We move to the open debate, with speeches of four minutes. Alison Harris will be followed by Clare Adamson.

15:06

Alison Harris (Central Scotland) (Con): Like many subjects in the education portfolio, the topic of today's debate is that of a well-intentioned policy that, again, has not been fully thought through when it comes to implementation. The presumption of mainstreaming has been a part of Scottish Government policy since the year 2000 and has become increasingly central to the ideology surrounding the teaching of children with additional support needs. The arguments in favour of mainstreaming point to the social and academic benefits for ASN children and, indeed, the positives of other children learning the importance of inclusion at an early age. However, the evidence in Scotland points to the conclusion that the policy is failing too many children.

Professor Lani Florian of the University of Edinburgh, who is an ardent supporter of mainstreaming, has said:

“We cannot ... dismiss the concerns of parents and teachers who feel that things are not working for too many children.”

The problem is that mainstreaming all children works only if there is adequate support for teachers in its delivery. In December 2018, a Scottish Government publication stated that 28.7 per cent of the school population had additional support needs. In contrast, though, between 2012 and 2016, there was a 12 per cent fall in the number of ASN staff—that situation is not sustainable. Other members have rightly

highlighted the damaging effects of that for children, but it is also important to note the impact on teachers and other staff.

Teachers have written a series of letters to the Scottish Government, highlighting their concerns. One letter said that the class teacher was hit, kicked and punched, and that the support staff were repeatedly subjected to kicks to the stomach and being bitten. In *The Scotsman* last February, one teacher described their colleagues as being “beyond breaking point” and said that the policy was

“increasing staff mental health problems”.

I do not think that anyone would think that that is okay. Who would want to come to work with the threat of chairs and scissors being thrown at them or of being bitten and kicked? Unfortunately, though, that is what we hear is happening in schools time and again. In many cases, a teacher’s whole day is spent focusing on the additional support needs of one or two children to the detriment of every other child in the class.

I recently asked the cabinet secretary what action he was taking to reduce teacher workload in Falkirk. His response highlighted access to “streamlined” online resources and toolkits to tackle administrative bureaucracy. However, those measures do not address the root of the problem; they simply attempt to manage the symptoms. The cabinet secretary said that it is the local authority’s responsibility to ensure that workload demands on teachers are minimised, but local authorities are having to make cuts across the board, so that will seem an impossible task.

The Education and Skills Committee recently heard evidence from the Scottish Government regarding its updated data collection methods. Those result in additional support staff no longer being counted as a distinct group, meaning that their numbers cannot so easily be identified or tracked. If we are no longer collecting the correct data, we have no method for deciphering just how bad the problem is for teachers, other staff and, ultimately, children.

The positives of mainstreaming are undeniable, but right now, for far too many children, it is not working. That is why I will be supporting the motion in the name of Liz Smith.

15:10

Clare Adamson (Motherwell and Wishaw) (SNP): This is a very important debate. I thank Liz Smith for her remarks about inclusion, the presumption of mainstreaming and how important mainstreaming is for young people. She mentioned that the number of people identified as having additional support needs has increased

greatly. This morning, the Education and Skills Committee heard Professor Hargreaves talk about his work in Canada—I believe that he said that the identification rate in Canada is more than 50 per cent. Therefore, it could be the case that we have more work to do. We should not be afraid of that: identifying additional support needs is about achieving the equity that the cabinet secretary spoke about.

I was not a member of the Education and Skills Committee in 2017 when it published “How is Additional Support for Learning working in practice?”. However, since joining the committee, I have come to know the priority that committee members give to ASN work, which they have embedded into all the committee’s work. Indeed, in the budget debate last week, I highlighted that the issue is one of the areas that the committee has concerns about.

I welcome the fact that Mr Gray brought in the issue of special schools. The committee visited the Royal Blind school, where we saw some moving and excellent work. I was lucky enough to meet a Pushkin prize winner who was going to university this year to study to become a writer. It is true that special schools have an important part to play, but that has to work hand in hand with ensuring that an appropriate environment is identified for every individual child. Only then will we achieve the equity that the cabinet spoke about.

Ms Harris, who is not a member of the committee, spoke about the collection of data. That is an important issue. We are in danger of conflating ASN teachers with ASN support staff, and we have to be careful about the language we use in that regard. During our committee inquiry into data and school support staff, Mick Wilson, who is acting deputy director of education analysis in the Scottish Government, said:

“We think that, at the level of detail at which we collect the data, the descriptions of ‘ASN auxiliary’ and ‘care assistant’ that we had in the past do not match with the staff that authorities have in place now. Because there was no ‘pupil support assistant’ option on the collection, some authorities were randomly allocating their pupil support assistants to one of those categories.”—[*Official Report, Education and Skills Committee*, 28 November 2018; c 17.]

It is not that we are not collecting the data, but that it has never been collected efficiently and in a manner that would inform us about the area. The cabinet secretary is reflecting on that. People could be filling the same roles, but those roles might have completely different job descriptions in different authorities.

From what I have heard today, the theme is that this is about partnership working, and to achieve that we will have to work closely with education authorities and the Convention of Scottish Local Authorities. It is another area that will need

consensus from local authorities on job descriptions and titles and how they describe their support staff in schools.

I was also glad to hear from Alex Cole-Hamilton about the change in the guidance. That important piece of Government guidance sets out clearly the responsibility of councils in relation to the plans for young people and the criteria that must be considered in implementing them, to ensure that every child receives appropriate support, letting them reach their full potential, as the cabinet secretary said.

15:14

Johann Lamont (Glasgow) (Lab): This is a short debate, and perhaps one of the upsides is that I will therefore be making a short speech. [*Laughter.*]

I will make some brief observations but, given the lack of debating time that the Scottish Government has given to education and particularly to the critical issue that we are discussing, I seek a commitment from the cabinet secretary to provide substantial debating time soon to allow the detail of the policy, its purpose and its effectiveness to be explored in more depth. I think we are all agreed on the basics, but there is a more substantial and perhaps more nuanced debate that we need to have, and we need a bit more time for that.

My starting point is a simple one. I support the presumption to mainstream as a matter of equity and fairness to young people with special educational needs, but also as something that will benefit all young people. I have been privileged to go regularly to Rosshall academy and Darnley primary school, both of which have visual impairment units, and I believe that it is of benefit to all young people to share their experience of learning. It is a means of breaking down the barriers, the divisions and the discrimination that all too many disabled people face throughout the remainder of their lives.

However, I want to be clear that making a policy commitment is not just about stating it. A policy commitment to mainstream is not a policy commitment if the appropriate resources are not made available, if the appropriate training for teaching and support staff is not in place and if meaningful support is not in place to help young people overcome not just the physical barriers that they may face, but all the barriers that present young people with huge challenges in achieving their potential. It is also not a policy commitment if there is no proper monitoring of its implementation and its impact. As has been said, we have looked in committee at the lack of information about the

skills and abilities of those who support young people in our schools.

Charities, the unions, carers and parents, among others, have all produced reports that talk about mainstream places being more honoured in the breach, with pupils having part-time timetables, time spent out of class—unlike their peers—or time spent outside the headteacher's door. At the more extreme end, there is inappropriate exclusion. In those circumstances, we are mainstreaming only in name, and I do not think that any member in the chamber would aspire to that.

It is essential that we confront something pretty basic that is going on in the system. All the evidence tells us that there is a stark lack of resource—a lack of willing the means—to make mainstreaming real in the lives of our young people, and that has consequences. I am deeply troubled that that has led not just to concerns about how best to meet the needs of young people with additional support needs but to serious questioning of the policy and a consequent danger of blaming the young people with additional support needs for being the problem. We must not allow that attitude to develop, and those who say that there are challenges need to be supported in understanding how those challenges can properly be met. We must not ignore them by saying, "Well, you don't care about the policy." It is essential that we are part of willing the means.

In conclusion, I want to reflect on my belief that the policy has been distorted. I recall when parents campaigned for and sought a presumption in favour of mainstream education. In a number of cases, we now see an assumption of mainstream education even when the family and those who support the child believe that to be inappropriate. That has consequences, too, such as inappropriate placements where we set up young people to fail, or reductions in the specialist places and specialisms that many young people require, so that, even if they are assessed as needing places outwith the mainstream, such places are not available.

It cannot be acceptable that, even where placements are available, local authorities are having to decide not to use them because of their cost, rather than there being an absolute, objective assessment of the child's needs. Across the Parliament, we know that that is not acceptable.

The Deputy Presiding Officer (Linda Fabiani): You must close now, please.

Johann Lamont: In conclusion, we should recall why parents and others sought a presumption in favour of mainstreaming. They seek from us not warm words, but proper, effective support for young people wherever—

The Deputy Presiding Officer: You must close now, please.

Johann Lamont: —they are placed, in order to fulfil their educational potential.

The Deputy Presiding Officer: I remind members that we are short of time in this debate, and speeches generally have only one conclusion.

15:19

Jeremy Balfour (Lothian) (Con): I welcome the debate. As I have said in previous debates in this area, back in the dark ages when I started school, my parents made the choice for me to go to mainstream school, which, in the early 70s, was perhaps not the choice made by the majority of parents in that situation.

I welcome the steps that have been taken by this Government and by previous Administrations to allow mainstreaming to become far more normal for those who have physical or learning difficulties.

The debate is important, as is the motion that we will vote on later. We need some kind of review to see where things are and how they can be improved.

A parent contacted me to tell me her story because she knew that the debate was taking place. She has a son in primary 5 in mainstream school but has requested that he is taken out because he spends 90 per cent of his time out of the classroom working independently with an adult. He does not have any friends, he feels lonely and isolated and he hates going to school. I suggest that that is an example of a time when mainstreaming has gone too far.

We are not looking at every child's needs. Yes, the primary reason why we go to school is to learn, but there are lots of other reasons that relate to emotional and social development. If people are being excluded from the classroom or—even worse—standing alone in the playground every break time, they are missing out. That is why I welcome the suggestion to simply review whether every child is really getting the education that they should get.

I will pick up a theme outlined by Alison Harris. We have to look at the issue holistically. If a child in a classroom often disturbs other children, that does not mean that they should be excluded; it means that they need the appropriate support. However, having spoken to many teachers, I know that they are fire-fighting in the classroom and that they feel more like policemen than teachers because they have to control what is going on. There is a danger here: what is happening at the coalface, as others know from personal experience or from talking to teachers and

parents, is often very different from what we express in our debates in these pleasant surroundings.

I fully accept that mainstreaming should be the preferred choice, but it should not be the choice that parents and children are forced to make because of bad decisions made by local authorities on either financial or ideological grounds.

There is room and opportunity for places such as the Royal Blind school in Edinburgh to continue to develop and provide support. That is why I support the motion in Liz Smith's name.

15:23

Jenny Gilruth (Mid Fife and Glenrothes) (SNP): I am grateful to the Conservatives for bringing forward the motion on the presumption to mainstream. I agree with Clare Adamson about the importance of the subject of the debate. I also agree with Johann Lamont, and my only criticism is that we are not having a fuller debate, because I know that the Education and Skills Committee has looked at the issue in great detail.

The backdrop to the policy is that there was a very different political landscape in 2004—there was consensus in Scottish education with the Education (Additional Support for Learning) (Scotland) Act 2004. The legislation and the language that it enshrined, which was not the language of disability, was truly groundbreaking 15 years ago.

None of us can deny that the ASL act fundamentally challenged traditional expectations of Scotland's teachers and schools. It put pressure on local authorities to accommodate learning needs that had never been considered in the mainstream. It put pressure on teachers to properly equip themselves with the training required. Fundamentally, however, it put pressure on education authorities to work to get it right for every child.

To do that properly, our schools had to start taking seriously their legal requirement to assess the needs of the children in their care. The evidence bears truth: since 2010, there has been a 153 per cent increase in the number of pupils recorded with an additional support need. Our children are more readily assessed for support, which is being done at an earlier stage in their school journey than ever before.

Conversely, since 2002, the number of pupils in special schools has fallen by 19 per cent, compared with a 4 per cent drop in the number of pupils in mainstream primary schools. Today, 97 per cent of children with an additional support

need in Scotland's schools are educated in mainstream education.

The Government's review into the presumption to mainstream is nonetheless timely, particularly given the recent developments in Scottish education. I note that the Government is to report on the implementation of additional support for learning nationally in due course.

Classroom assistants are a vital part of the education system. They support some of our most vulnerable pupils. Last August, *The Herald* reported on an overall increase in the number of classroom and support staff, from 12,992 to 13,761. That is good news, but the same article went on to consider behaviour support, and the number of such posts has reduced. As a former teacher, I think that part of the reason for that is that there has been a cultural shift in our schools away from disciplinary behaviour support bases towards enforcing positive behaviour through the use of restorative practices.

Listening to Alex Cole-Hamilton talk about his constituent reminded me of the story of a boy I once taught called Jamie. Some members might remember this story. Jamie was regularly removed from classes across the school. Every day, he would be sent to sit outside the deputy head's classroom with a jotter, and he would doodle away to his heart's content. During one free period, I remember sitting down with Jamie in a very public place and asking him how he was. He had been removed from his home and sent away to live with his grandparents, who lived much further away from the school. School was a salvation for him; it was the one constant in his life. When Jamie arrived in the classroom, he was promptly removed for his disruptive behaviour. I texted my former colleagues and friends ahead of today's debate and I was delighted to hear that Jamie's desk is no longer there.

Our teachers are professionals. Every single one of them is trained to support pupils with an additional support need or needs. That is a core part of initial teacher education. I take issue with Jeremy Balfour's comments about teachers policing the classroom. That is certainly not why I, or any of my colleagues, came into education. We came in to make a difference to children's lives, which is very different from the picture that was painted earlier.

Jeremy Balfour: Will the member take an intervention?

The Deputy Presiding Officer: The member is just closing.

Jenny Gilruth: Throughout the academic year, our teachers must evidence 35 hours of continuing professional development. For many, that time is

used to hone their skills by focusing their training on the pupils who are in their care.

Children's needs are not fixed. Consequently, our teachers' training requirements will change over time to reflect the children who are in front of them. Good local authorities know that and will provide and promote training opportunities to ensure continuous improvement in the profession. Good teachers know that simply passing their teacher training or completing their probation is only part of the journey.

The Government's amendment highlights its continuing commitment to a presumption to mainstream, and I hope that that perspective is shared across the chamber. However, as Liz Smith alluded to, we should be honest that there have been challenges in implementing mainstreaming for all pupils, because all pupils' needs are unique and many of our schools were simply not built to accommodate children with additional support needs. That is a fact.

The Deputy Presiding Officer: You must close, please.

Jenny Gilruth: I know from experience that the issue remains a challenge.

15:28

Mark McDonald (Aberdeen Donside) (Ind): I declare that I am a parent of a child with additional support needs. My son has been diagnosed with autistic spectrum disorder.

Just over three years ago, I asked Alasdair Allan, who was then the Minister for Learning, Science and Scotland's Languages, whether the Scottish Government would consider a review of the presumption of mainstreaming, because of concerns that I had received about how the policy was being applied in practice. The review was committed to and I understand that it is on-going.

I echo Johann Lamont's point that we would benefit from a longer debate that would allow for longer, and perhaps more nuanced, speeches. However, the speeches up until now have been broadly very good in that respect. Perhaps such a debate can come at the end of the review process.

When we refer to additional support needs in the chamber, we must remember that such needs cover a wide spectrum. Some needs will be transient in nature and some will require minimal or short-term support, but others will require intensive and on-going support. When we talk about percentages and figures, it is important to remember that they cover a broad spectrum of need.

The debate is rightly focused on children with the highest tariffs of need—children who are

perhaps not being provided with the support that they should be. That raises a question about consistency, because it is fair to say that there is variability in how children with additional support needs are being supported not only in different local authority areas but in different schools and, indeed, different classrooms. Sometimes that will come down to the ethos of an individual school or the approach of an individual teacher who has been inspired by training that they have undertaken or a course that they have been on.

The challenge is how we move from having those pockets of best practice to having a culture of best practice. As I pointed out in a debate that was led by Daniel Johnson, the key to getting it right for every child is the word “every”; it is about getting it right not for the majority of children but for every child, and if the system is not working properly for some children, we must work to make sure that it does. After all, if it is not working, that will impact not just on the child; they should be the central focus of our attention, but a wider impact will be felt by the child’s family, the other pupils in the class in which the child is being educated and the teachers and staff in the classroom and the wider school.

I suspect that members will have come across similar cases in their own surgeries, but the families and parents who come to my surgery to highlight things that have fallen down often feel ignored and sidelined and feel that they are not being properly included as partners in their child’s education. We must remember that parents should be seen as partners, given the important role that home as well as school plays in a child’s education performance. However, too many parents are feeling that their concerns are not being taken on board, are not being properly addressed or are being dismissed out of hand, and that is something that needs to be reflected on.

Finally, a point that I do not think has been raised in the debate is how we manage transitions for children, whether they be from early years to primary school, from primary to secondary school or from secondary to further or higher education or work. The environments that children move from and into are all very different, and if the transitions are not managed appropriately and the changes that they are going to experience are not properly explained, catered for and planned for in a suitable way, children who may well have coped perfectly well in a mainstream environment in one educational setting may find things falling down very quickly in another. I have written to the cabinet secretary to ask whether he would consider visiting the Orchard Brae campus in my constituency, which Aberdeen City Council has set up to provide specialist education to three to 18-year-olds. It very clearly looks at that whole life

journey and the preparation for appropriate transitions.

I want to finish on a quote from Charlene Tait of Scottish Autism, who recently tweeted a sentiment that I think sums up how this debate should be framed. She said:

“inclusion is about how you feel not about who you sit next to”.

That should be the guiding principle that flows through the debate.

15:32

Bob Doris (Glasgow Maryhill and Springburn) (SNP): I begin by acknowledging the constructive manner in which Liz Smith has raised what is a very important issue. I also absolutely agree that we must distinguish between inclusion and mainstreaming; they can be the same thing, but not always. Mainstreaming without the required support being in place is counterproductive for a young person, their family and the wider learning community in a school, and it also drives up demand for specialist schools among some young people who might be served well by and flourish in a mainstream inclusive setting, but only if the correct support is available.

I welcome the Scottish Government funds that have been made available—I will say more about that in a second—and the soon-to-be-published revised guidance to drive up consistency in standards across all local authorities. However, my question is this: how will that guidance be monitored once it has been implemented and how will councils’ performance in relation to it be audited? If that does not happen, it will simply be guidance sitting on a shelf. Indeed, Johann Lamont and Clare Adamson have already made some very important points about the challenges of monitoring and capturing the information that is out there.

On the issue of resources, we need to be honest: they are finite, and we can certainly do with more. That is self-evident. Different councils give different levels of priority to and make different levels of investment in inclusive mainstreaming and specialist school provision, which we must remember is a valued part of the wider school estate.

We also want national consistency. Getting an assessment from the local authority or the national health service is easier in some areas than in others, which makes it difficult to ascertain the level of additional support needs in different local authorities. We are not always comparing apples with apples, and the question is how all of that feeds into the funding formula for local authorities or health boards. If we start to pick apart that formula, we see how self-interest can lead to pork-

barrel politics in how money gets moved across the various regions and local authorities in Scotland. There should be no self-interest when it comes to additional support needs—the only interest should be what is best for the young person and their families. We all talk about local flexibility. However, let us acknowledge that, if we are to get national standards, there could be constraints on councils.

I will use the second half of my speech to talk about a mum I know quite well, who I met this morning. She is the mum of a primary 7 child who is on the autistic spectrum. That woman has the skill set, determination and knowledge to fight for her son's rights, and she certainly does that—and succeeds. Her son is approaching a vital transition period, as he currently attends a specialist school on a co-located campus and hopes to attend a mainstream secondary school with a specialist support unit. Although his mum would have preferred a more local secondary school with a support unit, there was certainty about where her son would go. However, Glasgow City Council has decided to move that support unit from one secondary school to another. It is unclear how many members of staff will be redeployed to the second school or what the structure of the support unit there will be. That young person and his family need certainty in planning for his transition, and that is potentially being undermined.

I wanted to raise that issue today, because this topic is not only about the quality of provision in our schools but about planning for transition for young people and their families. When we seek to improve, reform, update, advance or progress whatever system we have across 32 local authorities, we must do so with the wider community and for the long term. We must ensure that the voices of those living with autism and other additional support needs and their families are at the heart of it, so that families do not lose out in important areas such as transition.

15:36

Mary Fee (West Scotland) (Lab): I welcome today's debate and reaffirm our support for mainstreaming, for which all speakers have shown support. The presumption of mainstreaming is an important feature of our education system, benefiting children with additional support needs and creating a more inclusive system for all.

I thank Inclusion Scotland and Enable Scotland for their informative briefings ahead of the debate. My closing remarks will focus on some of the issues that they raise in those briefings. I will reflect on the challenges that they highlight in order to give an extra voice to the people they represent.

One of the main challenges of mainstreaming for schools is resourcing. That is why we lodged an amendment to reflect the impact that cuts have had on the promotion and maintenance of mainstreaming.

"Mainstreaming in itself does not necessarily mean inclusive education. Cuts to learning support staff, including teachers and other support workers, will further disadvantage disabled pupils and restrict their full inclusion."

Those are not my words but the view of Inclusion Scotland. Since 2014, 122 specialist teachers have been lost, while the number of pupils with additional support needs has risen by more than 40,000. That is simply unacceptable. It is unacceptable for children with additional support needs, for other pupils and for the teaching staff who are under pressure to support all Scotland's children.

A recent EIS survey revealed that 52 per cent of teachers say that supporting pupils with additional support needs has caused them stress in the past 12 months. When asked to agree or disagree with the statement,

"the provision for children and young people with additional support needs is adequate in my school",

more than 78 per cent of teachers disagreed, with 42 per cent strongly disagreeing. That is the view of the teachers who work in our classrooms each and every day, and it means that children with additional support needs are not being given the education that they need in order to learn and prosper.

Inclusion Scotland reveals that more than 10 per cent of school leavers with additional support needs leave school with no qualifications at Scottish credit and qualifications framework level 3, compared with less than 2 per cent of children with no additional support needs.

"Simply being present in a mainstream classroom does not mean you are included."

Again, those are not my words, but those of Enable Scotland.

To ensure that mainstreaming works for children who have additional support needs, there must be quicker, effective assessment of their needs. If not, we will continue to create barriers for many children who have additional support needs and prevent them from being included and actively involved.

Once more, it all comes down to staffing and resourcing. The Conservative motion fails to address the issue of funding in our schools. Instead, it seeks to take a regressive step that could be punitive to children who could prosper with mainstreaming, but only if the right resources are in place.

We should all support the presumption to mainstream. It supports inclusion and benefits children who have additional support needs. Otherwise, we could go backwards and separate children from their peers, creating divisions and more barriers.

15:40

John Swinney: This has been a helpful debate, and I will try to respond positively to Johann Lamont's call for more debating time to consider the issue, as echoed by Mark McDonald. I will also consider Mr McDonald's invitation to visit the Orchard Brae school campus, which sounds like a fascinating facility for meeting the needs of young people. I aim to do that as quickly as I can.

Johann Lamont and Mary Fee talked about the outcomes and impact of the policy and what it has achieved. It is important to put on the record what has been achieved by young people who have additional support needs in mainstream education. In 2016-17, 69 per cent of school leavers with additional support needs left school with one or more qualifications at SCQF level 5 or better. That was an increase of 13.8 per cent since 2011-12, and it demonstrates, on one measure, the effectiveness of the mainstreaming approach.

In 2016-17, 65.2 per cent of school leavers, including special school pupils, with additional support needs attained one or more qualifications at that level, which was an increase of 10 percentage points since 2011-12. We also look carefully at the number of pupils with additional support needs who go on to positive destinations, which increased by 5 percentage points between 2011-12 and 2016-17. Young people have made achievements through mainstream education and that is something that we should celebrate.

Rachael Hamilton: The cabinet secretary has touched on a point that I wanted to ask him about. A constituent of mine who is a distressed mother came to see me about her autistic son, who is not receiving sufficient support at high school. He cannot cope with the curriculum and the stress and anxiety while he is doing his national 4 exams. Does the cabinet secretary believe that the colleges sector can play a role in delivering more practical skills and learning experiences for young people who have autism?

The Deputy Presiding Officer: I remind members that long interventions during short speeches are not always useful.

John Swinney: That might be a possibility for the individual concerned and, as I said to Liz Smith during my earlier speech, I encourage dialogue between the family and the local authority about the issue. We must make sure that a

judgment is made about the correct educational setting for every young person.

The issue of resources was touched on during the debate. As I have told Parliament previously, the resources that are spent on additional support for learning increased from £584 million in 2015-16 by 2.3 per cent in real terms and 4.5 per cent in cash terms.

I am conscious of the significance of resources and I do not want to strike a discordant note at the end of my speech, but it is a little bit incredible for Alison Harris to give us lessons about resources when her party supports a policy of reducing the amount of money that is available to public finances because of the tax position that it supports. Tomorrow, of course, we will see whether the Conservatives will support any money being allocated to public services through the passage of the budget.

I will conclude with the points that Jenny Gilruth raised. She put the changes in our education system as a result of the passage of the Education (Additional Support for Learning) (Scotland) Act 2004 into their proper context, as we might expect from a former teacher. She illustrated that the change in the approach to education that has come about through the benefits and advantages of inclusion has required adaptations in teaching practice and in our education system, but the education of our young people is the better for our taking a mainstreaming approach and making an inclusive commitment to Scottish education, and the Government is committed to maintaining that.

15:45

Oliver Mundell (Dumfriesshire) (Con): I am pleased to close today's debate on behalf of the Scottish Conservatives, because it is incredibly important to talk about these issues in the chamber. I am pleased that the cabinet secretary has picked up on the strong hints from members that we would like to discuss the issues more in Government time.

Collectively, as a society, as a Parliament, as—I say this gently—a Government, as local authorities and as individual schools, it is often very difficult to say the truth out loud, which is that we are not getting it right for every young person in Scotland. As it stands, our education system is failing a small but significant group of young people. We have to be honest with ourselves. When I speak to constituents who are experiencing exactly the difficulties that we have been discussing today, I find it very difficult to explain to them why the system is letting them down so badly. In that context, I welcome the tone from members and the cabinet secretary today.

Inclusion is so important, but it is not just about being present in the classroom or even the school building, as many have said. We have to redouble our efforts to make sure that the reality matches up with the rhetoric for the young people and parents whom we are here to represent. Bob Doris made an important point about the variability across Scotland. I can only speak for my local authority area, but if there are similar problems elsewhere, it would point to systematic issues—members must see that in their mailbags—and I think that we have heard about them today.

We know for a fact that current practices are just not good enough. The expertise and support is out there; we have lots of talented people in our education system and lots of specialist provision that could be better used. I join Iain Gray in referring to the recent work by a number of autism charities that has highlighted unlawful exclusions. Of course, the report that he mentioned was not the first one in which we saw those concerns raised—Enable raised them in its report, “#IncludED in the Main?!”. It is clear that, right across the country, there is a problem in this area, with many good teachers, good schools and proactive parents struggling to work in partnership to ensure that young people access their legal right to an education.

We have to ask ourselves what principle we are putting first. Although the presumption of mainstreaming is, as others have said, important and noble, we cannot disregard what is in the best interests of a child or young person. True inclusion is about listening to what young people and parents are asking for. I find all too often in my constituency work that people are crying out for help. They often find that the type of support that the local authority offers through mainstreaming is inadequate and does not meet their needs. We have to be willing to listen, to approach these complex issues with an open mind and to work hard to find the best solution. We also need to trust our professionals and listen to what they say. Teachers and specialists are identifying clear issues, as Mary Fee and others have highlighted.

We need to think of inclusion as something that happens not just in schools. I am well aware from my work with them that some young people find that getting intensive support for a short period is more important than mainstreaming—even if that means, in some sense, that they are being excluded. By getting the right support in the short term, young people will get the long-term advantage of being more included in society, by fulfilling their potential and by being able to access workplace opportunities. We have to find the right balance. Sometimes being excluded from a mainstream setting in the short term to access specialist support can offer more in the long term.

We have heard that there is a great deal of positive practice to build on, but we cannot ignore the issues that have been highlighted right across the chamber. No one has said that the issues are easy, but we must be willing to embrace the challenges, or things will not get better. Inaction and simply saying that we have noble policies in place is not enough. I commend the Scottish Conservative motion to the chamber.

The Deputy Presiding Officer: That concludes the debate. Before we move onto the next item of business, I say that I am aware that I am hurrying you all up, but we are already starting the next debate late.

Tackling Antisocial Behaviour

The Deputy Presiding Officer (Linda Fabiani): The next item of business is a debate on motion S5M-15615, in the name of Liam Kerr, on tackling antisocial behaviour.

15:51

Liam Kerr (North East Scotland) (Con): We rightly spend a great deal of time in the chamber discussing high-profile crimes, but we rarely discuss something that is lower level, but can be nonetheless devastating in its own way and have a major impact on the quality of peoples' lives, the cohesion of their communities and the amenity of the space in which they live. I am talking about antisocial behaviour.

We have all experienced antisocial behaviour at one level or another—people coming into the garden or the stair and relieving themselves or smoking; the guy shouting at kids, so drunk that he cannot stand; the neighbours blasting out music that shakes the floor; the window of the community centre being panned in yet again; the local corner shop being tagged with spray paint; or coming out in the morning to find that every car in the row has been keyed.

I have witnessed all those in recent months in Aberdeen. That is not surprising because Scottish Government statistics show that there are around 41 antisocial behaviour incidents every day in Aberdeen. In fact, throughout Scotland, there are nearly such 1,000 incidents every day—and those are just the ones that are reported to police. That equates to more than 340,000 antisocial behaviour incidents last year, and the numbers are increasing. The overall number of incidents is up by 5 per cent, disturbances are up by 9 per cent, noise incidents are up by 5 per cent, and vandalism is up by 5 per cent.

Those are not the big-ticket issues: they do not make the evening news, but make no mistake—such incidents, on a repeated and escalating basis, are inconvenient for some people, aggravating for others and debilitating and terrifying for many. People lie each night knowing that the music will probably come on at some point, so even if it does not, they cannot relax, or they listen at night to the muted conversations on the corner outside their window, punctuated by the sound of smashing glass.

We also know from the Scottish crime and justice survey that deprived communities still suffer most from vandalism, littering and property crimes. If we allow that to continue unchecked, we are telling communities that they do not deserve to live free of such low-level intimidation and disruption; that they are not worthy of having a

safe and stress-free environment; and that we will continue to allow their community cohesion to suffer, while sending the signal that more serious criminal activity will, similarly, go unchecked.

Maureen Watt (Aberdeen South and North Kincardine) (SNP): Will Liam Kerr join me in commending programmes such as streetsport, which is run by the Robert Gordon University in Aberdeen? That programme, in conjunction with the police, goes into areas where people are experiencing the kind of antisocial behaviour that he describes.

Liam Kerr: I commend that programme. I am familiar with the work that it does in Aberdeen, and I have no doubt that there are many such organisations throughout Scotland that are also worthy of merit.

However, we need to try something new to address the fact that antisocial behaviour is rising. If we do not, we are telling elderly people, parents with young children and night-shift workers who are trying to sleep during the day that the impact of antisocial behaviour on them, their communities and their health is not important enough to be dealt with.

The Conservatives do not think that the issue is being taken seriously enough. I hope that the other parties will show that they agree by backing our motion.

Under the Antisocial Behaviour etc (Scotland) Act 2004, police officers have the power to impose a fixed-penalty notice on people aged 16 and over who are behaving antisocially. There are three key advantages to an on-the-spot fine: it is a swift and effective punishment for low-level antisocial and nuisance offending, it is a highly visible deterrent to others, and it frees up police officers on our streets to spend more time dealing with more serious crimes. The fine is £50, payable within 28 days, failing which it goes up to £75 and becomes a court debt. Once it is paid, the matter is over. It is a short, sharp shock with no criminal record attached.

Just last week, Ash Denham, the Minister for Community Safety, said:

“Fixed penalty notices are an important tool, forming part of a wide range of powers which enable the police and local authorities to exercise judgement when tackling antisocial behaviour.”—[*Written Answers*, 23 January 2019; S5O-02807.]

I agree, but antisocial behaviour is rising and the use of fixed-penalty notices has declined by 75 per cent. About 55,000 were issued in 2013-14, and about 11,000 were issued last year. There seems to be a disconnect, to which the motion in my name seeks to provide a solution.

In England and Wales, there is a similar scheme, but there is a crucial difference: penalty offences are divided into lower-tier and upper-tier offences, depending on their seriousness, and attract penalties of £60 and £90 respectively. In Northern Ireland there is also a two-tier system, with fines of £45 and £85, depending on the severity of the offence.

Daniel Johnson (Edinburgh Southern) (Lab): Liam Kerr is making good points, but does he acknowledge that there is no simple cost benefit, and that an increase in fines might disproportionately impact on people who can least afford to pay?

Liam Kerr: I do not know that an increase in fines would automatically disproportionately impact such people, but Daniel Johnson has raised an important point. I note the amendment that he lodged, which has merit. I will listen to the debate, but the points that I think he will make are, in principle, supportable by the Scottish Conservatives.

In Scotland, a review of fixed-penalty notices concluded that police officers think that having the power to issue them provides greater opportunities to deal with antisocial behaviour, but the existing fines are insufficient for dealing with more serious behaviour.

Therefore, in my motion I make a simple proposition that could remind communities that are blighted by antisocial behaviour that Parliament has not abandoned them. The motion simply asks Parliament to support the principle of an increased penalty for more serious antisocial behaviour incidents.

When we look at the English model, we see that the behaviour that would be covered might include possession and throwing of fireworks or breaching a fireworks curfew. I know that the minister is concerned about that issue, so I offer a solution. It might include criminal damage of less than £300, minor shoplifting on a first offence, or selling alcohol to someone under 18. Daniel Johnson is rightly concerned about shop workers: I offer a solution.

The approach would ensure that more crime can be punished. It would deliver direct and swift justice to low-level offenders, and would ensure a direct link between the offence and the punishment. Crucially, it would be a more effective deterrent than we currently have.

The Minister for Community Safety (Ash Denham): Will the member take an intervention on that point?

Liam Kerr: I really cannot. I am in my final minute.

For the purposes of debate, I suggest that we retain the £50 baseline and fix the penalty for more serious antisocial behaviour at £100. I have based that on what happens in the rest of the UK and on what I believe would have genuine deterrent value, although I will be interested to hear members' views on whether those are the appropriate levels.

Everyone deserves to live in a safe community, free from the menace of vandalism, noise and disruptive drunken behaviour. A higher fixed penalty for more serious antisocial behaviour would require a straightforward piece of secondary legislation. It would give constables on the ground the tools that they need, it would deliver instant justice for victims and communities, which would counter the feeling that low-level offending is ignored, and it would ensure a strong immediate link between the behaviour and the punishment.

Perhaps most important, given that it is often the most vulnerable people, including the elderly, who are most intimidated by antisocial behaviour, it would send a signal that we will protect those people from the behaviour that blights their communities.

Presiding Officer, we should increase the fixed-penalty notice for the worst antisocial behaviour. It is time to make the fine fit the crime.

The Deputy Presiding Officer: That is all very well, Mr Kerr, but will you move the motion? *[Laughter.]*

Liam Kerr: I move,

That the Parliament supports a higher level of fixed penalty notice for more serious antisocial behaviour.

15:59

The Minister for Community Safety (Ash Denham): The Scotland that I want to see is one in which everyone, regardless of their background, is able to live in peace, feeling safe in their home and their community, and in which people are able to raise their families in secure environments, free from the threat of abuse and the fear of harassment or intimidation.

I do not want to see anybody caught up in any form of antisocial behaviour and, as a citizen, I do not want my family or my community to be subjected to it either. None of us wants that, and that is why the Scottish Government and its partner organisations are keen to continue to deliver effective ways of tackling antisocial behaviour and its causes.

Effectively tackling antisocial behaviour requires a partnership approach, with Police Scotland, local authorities and the court services all playing a central role in delivering positive outcomes in communities across Scotland. There is much truth

in the old adage that prevention is better than cure. That is why we must never lose sight of the fact that prevention activities, including early interventions, must work hand in hand with robust criminal justice legislation.

We have seen evidence of a long-term sustained reduction in experiences and perceptions of antisocial behaviour in communities across Scotland. That is reflected in the Scottish crime and justice survey, which shows that the percentage of adults who think that people behave in an antisocial manner in their local area has fallen from 46 per cent in 2008-9 to just 29 per cent in 2016-17.

The estimated percentage of adults who have actually experienced vandalism has almost halved between 2008-9 and 2016-17

Liam Kerr: That is about perceptions. The minister must go out into communities and find out what is really happening on the ground. Frankly, people are still experiencing such behaviour. Does the minister not agree?

Ash Denham: All the evidence suggests that there has been a long-term sustained reduction in all crime in Scotland, including antisocial behaviour. The member would be wise to look at the data, in which he would see that for himself.

However, we are not complacent and we remain absolutely committed to ensuring that our justice partners have the powers to further reduce antisocial behaviour. It is vital that we continue to build on the diversionary and preventative work that has been undertaken over the last decade to develop the skills and resilience of our young people and help them to make better and positive life choices.

Since 2008, we have committed £92 million to cashback for communities and other community initiatives that deliver nearly 2 million activities and opportunities for young people across all 32 local authorities in Scotland. From 2017 to 2020, £70 million has been committed from cashback for communities, with a focus on tackling inequalities and providing opportunities to raise the attainment, ambition and aspiration of young people from areas of deprivation across Scotland. We have also invested over £3.4 million since 2009 for delivery of the no knives, better lives campaign and programme, which is informed by and complements wider youth diversionary interventions and activities that aim to prevent antisocial behaviour and offending from occurring in the first place.

The mentors in violence prevention programme, which is being developed in 140 schools across 22 local authorities, helps to lead young people to more positive destinations. Where young people are involved in or at risk of offending, we remain

committed to an integrated whole-system approach to tackle deeds while also taking account of wider needs. That approach is driving improvements.

To support our continued commitment to early intervention to prevent offending, cut reoffending and keep young people out of formal systems, as far as is possible, we have committed £1.6 million over two years for all local authorities in Scotland to support, renew and extend the whole-system approach, to allow for continued partnership working and to strengthen links between youth justice, community justice, education, the third sector and children's services. Where possible, that approach will be extended to young people aged 21 and, for care-experienced young people, up to the age of 26. That funding is making a real difference in communities.

Jamie Greene (West Scotland) (Con): I hear everything that the minister is saying, but I have not heard a single reason why she does not support the concept of a higher penalty for more serious offences. Will the minister furnish us with some detail on why she does not support the motion?

Ash Denham: First, fixed-penalty notices are only one part of an integrated approach in our justice system and there is no evidence at the moment to suggest that a higher level of fixed-penalty notice would have the effect that Conservative members are seeking.

We keep the matter under review. We are always listening to our justice partners, and we will ask them—they are the experts—about the matter. At the moment, we have no plans to raise the level, but we will keep that under review.

In Fife, a social work assistant is being employed to make connections with schools, strengthening the operational links between those schools and Fife's diversion group. In South Ayrshire, the money will be used to extend the garden project, which is targeted at young people aged 15 to 18, and up to the age of 26 for care-experienced young people, who are at risk of offending or who have been engaged in low-level offending. Those young people are learning new and transferable skills, such as how to communicate better in a group and how to work together in a team, which will support them as they move to positive adulthood.

Although fixed-penalty notices are an important tool in our response to antisocial behaviour, they form only a part of the wide range of powers that already exist to tackle antisocial and criminal behaviour. Our approach is robust and holistic. We will continue to build on it, to deliver the Scotland that we all want to see.

The Deputy Presiding Officer: Yet again! That is all very well, but would you like to move your amendment?

Ash Denham: I move amendment S5M-15615.2, to leave out from “supports” to end and insert:

“recognises that fixed penalty notices play an important role in tackling antisocial behaviour when used as part of a comprehensive package of penalties and interventions, which include diversionary, early intervention and preventative activities that are aimed at steering individuals away from antisocial behaviour whenever possible, and calls on the Scottish Government to keep all of these approaches under review by working with Police Scotland, local authorities and the court services to ensure that appropriate and proportionate penalties and/or interventions are applied to deliver the best outcomes for victims and wider society.”

The Deputy Presiding Officer: I call Daniel Johnson to speak to amendment S5M-15615.3. Third time lucky.

16:06

Daniel Johnson (Edinburgh Southern) (Lab): This is an important debate, very much for the reasons that Liam Kerr set out in his speech. When we talk in the Parliament about crime, it is mostly about the big crimes, but very often the lowest-level activities have the biggest impacts in our communities, and it is right that we examine the measures that we have to tackle those activities.

I very much agree with the sentiments that were expressed by Ash Denham. She is absolutely right that we must focus on prevention because, ultimately, that is how we will reduce crime. That is the approach that Labour took during its time in government. Indeed, antisocial behaviour orders were established by the last Labour Government, and I argue that they are a key component—there are many other reasons and multiple factors beyond them—of the long-term decrease in crime that has been observed. However, we cannot be complacent, so we have to look at the issue.

Although we support the motion’s broad thrust, we have reservations about it, which I will detail later. Antisocial behaviour is problematic behaviour. It ranges from behaviours that we might characterise as neighbours from hell, through to littering, youth nuisance, being drunk and disorderly and vandalism. Such behaviours can have real impacts on our communities, and Claire Baker will set out the issues that she faces in her region. Those behaviours are low level and below the threshold of criminality, but the disruption that they cause is much wider. More important, they can lead to wider criminality: they can provide the context for and be precursors of criminality.

We need to equip our police with the tools that they need in order to make early interventions, so that they can intervene on problematic behaviours before they reach the threshold of criminality. We must have a robust approach to crime; we must also have a robust approach to tackling its underlying issues. To quote a certain Labour former shadow Home Secretary, we must be

“tough on crime, tough on the causes of crime.”

That approach often focuses overly on the first element of that phrase. We must look at the causes of crime in relation to the social impacts—I will go into that in a moment—and the evidence. The evidence is an important aspect.

The orders are widely used—indeed, 50 per cent of police disposals are for antisocial behaviour—and, as far as we can tell, they are effective. However, we lack clear and detailed evidence on their impact and we have seen a recent decline in their use. I urge the Government to have a more in-depth look at why the numbers have been declining and whether they can be improved on.

The most recent study that we have is the Scottish Government’s review of fixed-penalty notices in 2009, in which the police reported that such notices were useful and proportionate. Indeed, 83 per cent of police responses said that they saved time. From that perspective, such notices clearly have a role and are effective, but I think that we need further evidence.

That brings me to the Scottish Conservatives’ motion. As I suggested, I believe that it has merit. However, its wording is narrow and focuses overly on one measure. As the minister pointed out, and I agree, if we are to tackle such behaviours—and do so early—we need to look at a broad range of measures. However, we must also look at the context. It is hard to escape the conclusion that poverty has a clear and direct impact on many of the behaviours that we are looking at. There is a danger of compounding those if we simply increase the set penalties without any reference to the wider context.

There is no evidence that crime simply comes from a cost benefit calculation that is made by criminals. That is a very dangerous assumption. We have to look at other measures and at causes. That is why Labour’s amendment acknowledges the role of such measures but also looks to the wider context and to considering such matters in the round.

In particular, I want to highlight the diversionary tactics and policies that can be used by the police. The Dundee families and Shelter inclusion projects are very good examples that centre on housing, in which the police use their powers to divert families towards appropriate services. There

is good practice in England and Wales—for example, in Avon and Somerset and in the Thames Valley, where people are directed towards drug counselling and other services to divert them away from drug use. Other such strategies centre on social services.

Likewise, the Scottish Government's amendment has many merits—

The Deputy Presiding Officer: Come to a close, please.

Daniel Johnson: I will conclude. Given that the Government amendment would pre-empt mine, Scottish Labour will not support it. However, if it should be agreed to at decision time, we will support the amended motion.

While we must give police the right tools, we must also acknowledge the causes and contexts within which antisocial behaviours take place.

I move amendment S5M-15615.3, to insert at end

“to be considered as part of a wider set of proposals to eliminate the causes of antisocial behaviour, and diversionary policies to identify and tackle behaviour before it reaches the criminal threshold”.

16:11

John Finnie (Highlands and Islands) (Green): The debate is a timely one. Antisocial behaviour blights all our communities and I certainly understand the impact that it can have on a number of people. There is a role for all of us to play in tackling it. The primary function of the police is to guard, watch and patrol, so as to prevent crime. Therefore, a visible police presence and active citizens supporting the police are important.

I wonder what my Conservative colleague Liam Kerr is trying to achieve with his motion, and what the gauge of success would be. If he will let me build on that, I will perhaps explain what I mean by it.

In front of me I have a fixed-penalty notice. It is one of a range that I could have called upon. *[Laughter.]*

Daniel Johnson: What was it for?

John Finnie: It does not actually have my name at the top.

I want to pull a couple of important phrases from its wording. It says that acceptance of the notice

“allows the matter to be concluded by payment of a fixed penalty”

and goes on to say that

“any liability for conviction of the offence is discharged”—

which people will understand—and

“no discussion or review of the facts of this case can thereafter take place”.

That contrasts with the situation if the matter were to be reported.

Of course there is a role for antisocial behaviour orders. Liam Kerr talked about repeated offences, and if someone refuses to desist from committing an offence, the appropriate action is for a police officer to arrest them, as he will understand. If someone commits escalating offences, there is another opportunity for intervention. I picked up some such methods from Mr Kerr's contribution, in which he talked about deprived communities suffering the most. I also align myself with Daniel Johnson's comments on that.

However, that is a wee bit askew from the notion of community cohesion, which requires us all to work closely together. Mr Kerr talked about trying something new, but there was nothing new in what he had to say. From members representing a couple of the parties I heard a rehash of old phrases from past campaigns. There is nothing new in trying to deal with issues of drunkenness or addiction. The very notion that we should try to reason with someone who is in a drunken state, hand them a bit of paper and expect them to have some regard to the penalty that comes from it is not realistic.

Liam Kerr: I hear the point that John Finnie makes, and I understand it. However, such an approach would be new to Scotland. In the rest of the United Kingdom, we have a two-tier system, but we do not have that here. Does the member not agree that it is definitely worth trying? After all, only secondary legislation would be involved.

John Finnie: No, I do not agree. Had the debate been about looking at how we could uprate the option, as we could with the scale of fees for fines, that might have been something, but the reality is that someone who is under the influence of drink or drugs will not be influenced by whether there are two figures or three figures with a pound sign written on a note. We have to deal with things differently.

Something has changed tremendously from my days in the police. Rather than trying to resolve something there and then—by taking the offender out in a domestic abuse incident, for example—a problem-solving approach is adopted. That does not involve going to someone with a piece of paper that says that the matter is concluded, because often there are connected, underlying reasons, which may well be to do with addictions or the pressures of poverty, as we have heard.

I do not think that what has been proposed is the way to go. The minister suggested routes such as some of the great community campaigns, and

Mr Kerr acknowledged that those have a role to play. That is the direction of travel.

We lodged an amendment along the lines of Daniel Johnson's amendment, but it was not selected. However, it is important that addressing the issues and the schemes are properly resourced.

We will support the Government amendment, but not the Conservative motion.

16:16

Liam McArthur (Orkney Islands) (LD): I, too, thank Liam Kerr for bringing forward this helpful debate—and not least for allowing John Finnie to come clean about his history of fixed-penalty notices. I very much agree with much of what John Finnie had to say. We all agree, I think, that where antisocial behaviour burdens or, indeed, blights communities, our justice system needs to be equipped to handle it appropriately.

I am grateful for the opportunity to reiterate for the record my thanks to the police, local authority staff and the many organisations throughout the country for the work that they do to combat antisocial behaviour. Every day, officers are confronted with complex judgment calls that draw on their training, experience and discretion. Fixed-penalty notices are part of their toolkit. Indeed, until recently, fixed-penalty notices were so significant that they were far and away the most widely utilised police disposal. The rationale for their popularity was clear. The police and the prosecution services could save valuable time and scarce resources by administering an on-the-spot fine. Five years after fixed-penalty notices were created, officers described the time savings as

“the most apparent and significant benefit of FPNs”.

Diverting people from our courts does not only free up time, of course. Daniel Johnson and other members have referred to that, and the amendments that have been accepted suggest that. They recognise the value of early intervention, preventative and diversionary measures and raising the age of criminal responsibility. Where possible, keeping people away from court in the first place is the best way to avoid their descending into repeat offending behaviour. Therefore, the rationale and the evidence for fixed-penalty notices are clear.

Other members have spoken about the context and that bears repeating. Reports of many of the offences that are covered by fixed-penalty notices have decreased. Data that was published just yesterday show that recordings of breach of the peace have reduced by 43 per cent in the past 10 years and recordings of drunkenness and other

disorderly conduct have fallen by 72 per cent. Other figures follow suit.

Liam Kerr: If the member accepts the principle of fixed-penalty notices, does he accept the principle that we should have two tiers of fines and put them up?

Liam McArthur: I will come to the point about increasing the fines for fixed-penalty notices. I share the uncertainty that a number of colleagues have expressed about where precisely the Conservatives want to go with the motion.

Officers appear to be moving towards more lenient disposals: fixed-penalty notices have reduced and recorded police warnings have been introduced. Police Scotland described that option as

“the first step in a three-tiered disposal process”.

Therefore, that tiering already exists.

There are important considerations in the debate. That is not to say that we should not keep matters under review, but I am unclear about what precisely the Conservative motion calls for. Is the proposal to apply a higher penalty in every case to reflect the fact that some of them are “more serious”, or does the motion propose a two-tier system with a range of fine levels? If so, where would the line be drawn for malicious behaviour, breaking alcohol bye-laws or persisting in singing? There would need to be transparency and predictability. At what point does a low-level antisocial offence become a serious low-level antisocial offence?

The purpose of fixed-penalty notices is to impose on-the-spot fines for minor offences. If behaviour falls into a new, more serious grouping, then police officers already have the discretion and power to escalate matters—for example, by referring someone to the procurator fiscal. As I said earlier, there is value in review and reflection, and I am not opposed to a higher level of fines for fixed-penalty notices—certainly, they should be enabled to keep pace with the rate of inflation. However, if there is an argument for increases, it will be borne out through consultation and discussion with the professionals on the front line. At this point, it seems that more evidence is required before Parliament commits itself to what the Conservatives propose.

16:20

Maurice Corry (West Scotland) (Con): I welcome our party's debate today and I support Liam Kerr's motion.

Antisocial behaviour is a worrying and rising problem in Scotland and we must recognise its impact on our communities, for that is how we

work out the best solutions. With my role in community safety, I am keenly aware of the challenges of antisocial behaviour. Incidents of harassment, abuse, bullying and vandalism are far from uncommon and are everyday occurrences. We are seeing a rise in neighbour disputes, noise complaints and disturbances. We cannot underestimate how that makes people feel. If such offences are on-going, we can imagine the impact on people's mental health.

Antisocial behaviour creates victims out of ordinary people who have not asked for trouble. Although such behaviour can start in a small way, it can quickly escalate into more serious and offensive behaviour. At its worst, it threatens the sense of community. For the elderly especially, it can make them feel more vulnerable and isolated; and for those in deprived areas, antisocial disturbances can seem just a fact of life.

In my own area, I have seen the frustration and fear that the problem can cause. In West Dunbartonshire, over 7,000 antisocial behaviour incidents were reported in 2017-18. That means that, on average, there were 20 incidents a day in that area alone. However, in the same time frame, a total of just three antisocial behaviour orders were issued. Further, the local council, controlled by the Scottish National Party, has not updated its strategy since 2009. How can that be acceptable? A strategy would respond to the offences with a relevant and powerful approach. For me, the incidents themselves are not the sole problem; the lack of a strong and robust response to the antisocial behaviour can often worsen the situation and is another problem in itself.

To make our communities truly safer, we need a greater police presence. However, we cannot deny that our police force is stretched. The pressure that it faces as police numbers dwindle is surely a warning sign. Without the resources, antisocial behaviour cannot be tackled to the extent that it could be. Nuisance offenders can escape through the cracks. I know that that frustrates our police officers as much as it does our communities. It is disappointing to see that the number of special constables has halved in the past five years, since the beginning of Police Scotland under the SNP.

Ash Denham: The facts of the matter are that in the past 10 years, police numbers have gone up by 5.6 per cent in Scotland; but in England, under the Conservatives, police numbers are down 13.8 per cent.

Maurice Corry: The numbers might be up in Scotland, but the fact is that far too many police are in administrative roles and not out on operations.

I know that the special constable pathway can be of great benefit to veterans and to local areas as a whole. The visibility and presence that such officers provide, in the heart of our communities, is invaluable and our police force is stronger with their assistance. For our constituents, a greater police presence would go a long way towards making them feel safer and more secure. With antisocial behaviour on the rise, surely increasing that police presence is an obvious move.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): Will the member tell us how much more money the Conservatives would spend on Police Scotland, where that money would come from and whether it would lead to the Conservatives cancelling their proposed tax cuts?

The Presiding Officer (Ken Macintosh): Mr Corry, you have only half a minute left.

Maurice Corry: Obviously, we will see what comes forward at the budget debate tomorrow and what is said on the member's side of the chamber about the case that we put forward. However, we are saying that the money should be put where it matters, which is on the street: in other words, into increasing the police presence.

To equip those police officers, we need an increase in the fixed-penalty notice fines. As we have heard, the number of fixed-penalty notices being issued is at an all-time low, but such fines seem to be the best way to stop offenders in their tracks. They allow police officers to take swift action against more serious behaviour. They mean that justice can be delivered on the streets and they are a clear and quick deterrent that matches the crime.

Of course, early intervention would be ideal to prevent antisocial behaviour from happening in the first place, but we are talking here about how to deal with it once the harm has already been done. For the victims of such crime, it is important that they get the fair justice that they deserve. For their sake, I hope that the Government will encourage the proposed move to an increase in the amount for a fixed-penalty notice.

The problem of antisocial behaviour goes further than being a nuisance. It is simply not right that our communities can feel less safe and not listened to. It is an injustice if offences go unchecked. I believe that having the most up-to-date strategy in place and linking that to fines that tackle the crime, on the spot, is the best way forward. That is how we can make our communities safer and better places to be.

16:25

Rona Mackay (Strathkelvin and Bearsden) (SNP): At the start of my speech, I will say

something that I believe will achieve consensus across the chamber: Police Scotland does a fantastic job of keeping us safe and fighting crime, and we owe the police a huge debt of thanks.

The Conservative motion asks Parliament to support

“a higher level of fixed penalty notice for more serious antisocial behaviour.”

However, like John Finnie and Liam McArthur, I am a little puzzled as to the detail of the motion and where the evidence is that a higher level of fixed penalty notice would reduce offending or reoffending.

Liam Kerr advocated doubling the on-the-spot fine from £50 to £100 for more serious offences that are not deemed serious enough to go to court. My questions are: who defines how serious the offences are, and how, if they are not going to court? Is that judgment simply down to the police who are dealing with the incident, and, if so, who would monitor that? Is it not just imposing another responsibility on our hard-working officers?

Of course, I agree that antisocial behaviour is distressing and causes chaos to daily lives and communities. It ranges from neighbours' disputes to vandalism and everything in between, as Liam Kerr and Daniel Johnson outlined. However, a large proportion of the crimes are committed by young people who may have lost their way or face adversity in deprived communities, and they may not be in a position to pay £50, far less £100. I agree with Daniel Johnson's comments on that.

Having said that, the figures that were released today by the Howard League Scotland indicate that the number of young people becoming involved in the justice system is reducing, not just in Scotland but globally, which is very welcome news.

I believe that early intervention, starting with education in school, is one way to reduce antisocial behaviour. So, too, is a change to a culture of respect among adults, encouraging them to stop and look at the selfish ways in which they behave and how they upset people. If we attempt to find out why people—adults or children—act in that way, it may help us to reduce instances of antisocial behaviour.

Liam Kerr: Does Rona Mackay think it is acceptable that SNP-run Glasgow City Council's latest antisocial behaviour strategy is dated 2005-08?

Rona Mackay: The figures must speak for themselves. The initiatives that were outlined by the minister show that we are tackling the causes of antisocial behaviour. I am not sure that the point was entirely relevant.

Fixed-penalty notices are important, but they are just part of a wider range of powers and initiatives to tackle antisocial behaviour. I am pleased to say that, in East Dunbartonshire, in my constituency, unlike in Liam Kerr's constituency, crime is down right across the board, with the number of reports of antisocial behaviour down 4 per cent from last year. I hope that that trend continues, and I commend the work that is being done by our local officers.

The 2018-19 draft Scottish budget increases funding for police services by around £25 million compared with previous years. That is helped by the change to their VAT status, which means that we are not being unfairly charged. However, back payment of the £175 million would be a considerable boost to the police budget, and we will continue to put pressure on Westminster to return that money to us.

Budgets and statistics are for politicians. I recognise that people are more concerned about the reality of life on the streets. I agree that we should do everything that we can to reduce antisocial behaviour, but I am not convinced that this is the way to do it. We are on the correct trajectory when it comes to dealing with crime in Scotland. It can never be eradicated, but, if we have a dedicated and professional force that is producing encouraging results, we are on the right track.

16:29

Claire Baker (Mid Scotland and Fife) (Lab): I welcome the opportunity to speak in today's debate. Antisocial behaviour is a blight on too many communities and causes significant disruption to people's lives. The debate offers a welcome opportunity to consider how we can tackle such behaviour in ways that are effective, proportionate and preventative. I will raise an issue that illustrates the challenges that we face in addressing antisocial behaviour.

In recent years, we have seen an increase in the popularity of off-road vehicles such as quad bikes and scramblers, partly because it is easier and cheaper to buy them online and from overseas. I appreciate that riding quad bikes and dirt bikes is exciting, but those who buy them must appreciate that there are restrictions. The Driver and Vehicle Licensing Agency is a reserved body, but consideration should be given to the need for such vehicles to be registered and insured, with appropriate consequences, such as destruction or confiscation of the vehicle, if there is a failure to comply.

The influx of such vehicles has coincided with a rise in irresponsible behaviour, and that cannot go unchallenged. In Fife, particularly in the

Levenmouth and Kirkcaldy areas, we have seen residents being put at risk in their own streets. There has been the death of a much-loved pet, dangerous riding in parks and woodland walks, which puts the riders and other citizens at risk, and thousands of pounds' worth of damage to local farmland as riders have trespassed on private property. We cannot let such irresponsible antisocial behaviour continue.

For some time, I have been campaigning for clearer rules and regulations so that those who use off-road bikes understand the risks that they are taking and the laws that they are breaking. I have argued for investment in diversionary activity and for the police to have a full range of powers to tackle the problem.

Many riders are ignorant of the law, but others are involved in criminality. Bike theft is a feature, with, at its height, an average of one vehicle being stolen every eight days in Fife. I have worked closely with the local police, and I highlight the work of Inspector Tom Brown and the team in Levenmouth, who have worked hard alongside the local community to tackle such antisocial behaviour. To date, 32 bikes have been seized in Levenmouth, and, last year, 21 people were charged with the illegal use of off-road bikes in the area.

Nevertheless, the police still face significant challenges. In a recent interview with a local paper, Inspector Brown made it clear that such behaviour on quad bikes and similar vehicles is

“a threat to public safety”,

before raising concerns that

“Somebody will be killed by the illegal use of motorbikes and legislation needs to be changed to reflect that.”

We must not wait until there is a serious or even fatal accident in the area before we take the necessary action.

The current court system of issuing fines and putting points on driving licences is a time-consuming and lengthy process, and it is not always relevant to the culprit. We should be looking to provide the police with more options, including the issuing of fixed-penalty notices to such riders, which would be a more immediate police response that reflected the crime.

I raised the issue with the minister in the chamber just before Christmas, and I appreciate the productive meeting that we had this morning. I will meet the police and other partners in Fife tomorrow, and I hope that we will be able to work together to tackle the issue. Ultimately, safety is the paramount concern—safety for the rider, but also safety for local residents.

As both amendments highlight, fixed-penalty notices and punishment can be only part of the solution. Early intervention must address the root causes and tackle the activity before it becomes criminal. In that context, I highlight the work of Kingdom Off Road Motorcycle Club. Working in Levenmouth, it provides diversionary programmes and offers a safe and professional environment for off-road track users. Its work in the area is vital in raising awareness of responsible riding and preventing antisocial behaviour. It is seeking support and funding to build an indoor track to which riders will have access all year round. It has had support for its diversionary work from the local authority, the police and funding bodies such as the Big Lottery Fund, but funding is always a challenge.

To tackle antisocial behaviour, we must look at innovative solutions to the problems that we face alongside considering changes to legislation. That is why I will support the Labour amendment this afternoon.

16:33

Richard Lyle (Uddingston and Bellshill) (SNP): If the Tories really thought that this issue was important, they would have allocated more time for the debate.

I will begin by reflecting on the wider issue, because fixed penalties for antisocial behaviour are part of the wider powers and activity that our police service delivers to keep our communities feeling safe. The SNP Government is utterly committed to that priority and supports that work to build community safety. We see that being recognised time and time again as we reflect on our record. We have one of the lowest crime levels since 1974 and more police on the streets, not fewer, as in England.

In reflecting on the call in the motion, we must recognise that, although fixed-penalty notices are an important tool for tackling antisocial behaviour, they form part of a wider range of powers and initiatives. The police and local authorities already have that range of options available when they are tackling antisocial behaviour, and, importantly, they have the ability to exercise discretion and judgment when using those options.

The Scottish Government supports work to reduce the damage that is caused by antisocial behaviour by tackling the symptoms and investing in prevention. For example, the cashback for communities initiative funds a wide range of projects and facilities throughout Scottish communities, including those that are experiencing antisocial behaviour. Since 2008, the Scottish Government has committed £92 million to cashback for communities. That type of

preventative spending on diversionary work is an effective tool in addressing some of the concerns that Conservative members have raised. That said, the Government has stated that there are ongoing discussions with Police Scotland and local authorities about providing opportunities for them to explore other options.

We must be careful, because there are unintended consequences of what appears to be a quick fix. For example, people committing low-level antisocial behaviour could be given fines that they cannot afford to pay and could therefore get caught up in the justice system. We do not want that for the people we represent; we need a proportionate and balanced approach. In my opinion, increasing fines is an easy fix. I am afraid to say that it is the usual Conservative headline-grabbing approach. We have a Tory party that wants to reduce income tax but then increase fines. It is a “short, sharp shock”, to use that old Tory saying. I wonder where I have heard that before. Is that the Tories’ new way of raising revenue? I am really interested in hearing about the Conservatives’ wider justice policy. *[Interruption.]* They should have given us more time to discuss the matter instead of taking the approach that they have taken today. Do they not want to talk about it?

It is not a simple issue. I served as a councillor on North Lanarkshire Council for decades. *[Interruption.]* The Conservatives are trying to do to me what they did to Mr Blackford at Westminster—and it will not work with me. North Lanarkshire Council was one of the first councils to have a dedicated antisocial taskforce department, and I can tell the chamber that justifying antisocial behaviour orders takes a lot of work. It needs more investigation and the direct involvement of both council staff and police.

We have a headline-grabbing motion—the Tories want to get tougher and introduce more fines in order to grab the right-wing press headlines, but that does not make for a competent approach as far as I am concerned *[Interruption.]* We, in the SNP, will continue to have dialogue and will work with our partner agencies in a comprehensive approach to tackling not only antisocial behaviour but crime across the board. I am very glad that I have upset the Tory party this afternoon.

16:37

Margaret Mitchell (Central Scotland) (Con): Although antisocial behaviour is often referred to as nuisance crime, it can have deep-seated adverse effects on individuals, families and communities. It can take many forms, ranging from vandalism to drunken behaviour and verbal abuse. Such behaviour is intensified for council tenants

and owner-occupiers living in flats, as the following two examples from my casework demonstrate.

The first example concerns an elderly lady who lived alone, peacefully, in her privately owned flat until the flat below was rented to individuals who used the communal garden from morning to night to drink, smoke and swear. When my constituent complained, neither the letting agent nor the landlord took any action, but from then on she was subjected to verbal abuse and intimidation to the extent that she became reluctant to leave her flat.

The police were called and were responsive, but could only ask her to continue to monitor and report the incidents. Eventually, in consultation with her family, she had to put her flat up for sale, with all the stress, upheaval and expense that that entails.

My other example involves a constituent who had lived in her council flat for 20 years. A couple moved into the flat directly opposite hers and, from then on, the lives of my constituent and her other neighbours became a living hell. Despite rules to the contrary, the couple kept 10 pets in their fourth-floor flat. Their antisocial behaviour included shouting abuse at residents, putting litter through their letterboxes and playing unacceptably loud music. Several years on, the abuse continues and my constituent is now suffering from depression, which is affecting her employment.

Elaine Smith (Central Scotland) (Lab): I have every sympathy with the members’ constituents, but I wonder how increasing fixed penalties would help with that. I am genuinely asking the question.

Margaret Mitchell: If the member allows me to develop my argument, I will certainly answer that question.

It is deeply concerning that 1,000 incidents of antisocial behaviour are recorded every day across Scotland. The number of incidents is up by 2 per cent in North Lanarkshire and up by 5 per cent across Scotland.

The Government’s amendment rightly states that measures to tackle antisocial behaviour need to include

“diversionary, early intervention and preventative activities”.

Antisocial behaviour orders were introduced by the Liberal Democrat and Labour coalition as part of the Antisocial Behaviour etc (Scotland) Act 2004, which included provision for parenting orders as an intervention to prevent further incidents of youth antisocial behaviour.

In 2009, the Scottish Government published its antisocial behaviour framework, but it is unclear what measures have been put in force as a result of the framework and whether parenting orders can still be used. To answer Elaine Smith directly,

I say that, in any case, there needs to be a balance between early intervention, diversionary measures and deterrents. There needs to be a tougher deterrent to tackle the more serious and persistent instances of antisocial behaviour. That is particularly important, given that such behaviour is happening against a background, as the Scottish Police Federation says, of police being “run ragged” and at “breaking point”. They are

“frustrated that they ... cannot respond to incidents due to a lack of resources.”

It is for that reason that the Scottish Conservatives propose a doubling of the fixed penalty for antisocial behaviour from £50 to £100 for the most serious antisocial behaviour crimes. I urge Parliament to support the Conservative motion this evening.

16:41

Shona Robison (Dundee City East) (SNP): Antisocial behaviour is, of course, unacceptable. No one in Scotland should have to put up with abuse in any form. The definitions of antisocial behaviour are wide ranging and cover all manner of abusive behaviours. Antisocial behaviour can make people feel threatened, vulnerable, distressed, alarmed, harassed and more. I know all too well from my constituency caseload the impact that such behaviour can have. We all agree that there is a need to tackle antisocial behaviour and its causes to prevent members of the public from experiencing the fallout from such behaviour.

Fixed-penalty notices are one way in which Scotland can deal with antisocial behaviour. The £50 on-the-spot fines for minor offences that are issued by Police Scotland form an important deterrent against offending and discourage repeat offences. The penalties are already raised to £75 if they are not paid within 28 days, and fines are steeper for other offences to reflect their seriousness. To that end, the existing policy approach already adheres to the tiered system that Liam Kerr seeks.

However, fixed-penalty notices are not the only way in which Scotland can tackle antisocial behaviour. For a start, the penalties are issued after an offence has taken place. That could certainly act as a deterrent but, to truly tackle antisocial behaviour, we need to tackle the root causes of it, which is what the Scottish Government is doing.

The cashback for communities programme is a good example of the Government’s approach. Money that has been seized from criminals is reinvested directly into community initiatives for young people in local communities across Scotland. Since 2008, the Scottish Government has provided £92 million of support and has

targeted it in areas of deprivation and social exclusion, where there are higher risks of becoming involved in antisocial behaviour from a young age. The funding has delivered almost two million positive opportunities and activities for young people across Scotland.

In Dundee, more than £2 million has been spent on projects that have created about 62,000 activities for young people in local communities. The projects involve sport, diversionary youth work and creative initiatives in partnership with Creative Scotland.

Liam Kerr: I agree with the general thrust of what Shona Robison is saying. However, off the top of my head, I think that there are still 43 incidents of antisocial behaviour in Dundee every day, so does she agree that we should try to do more, such as introduce the two-tier system?

Shona Robison: As many others have said, I am not sure whether there is evidence that that system works, whereas there is evidence that diversionary activities and tackling the causes of offending work. Members of Parliament should follow the evidence, and I do not think that there is strong evidence for introducing a two-tier system.

Of course, as I said at the beginning of my speech, fixed-penalty notices are already one of the tools that can be deployed, but tackling the causes is absolutely key.

Research has shown that more adults feel safer walking home after dark, for example, and according to the Scottish crime and justice survey and the Scottish household survey, the number of adults who believe that antisocial behaviour is an issue in their area has dropped substantially and fewer adults are seeing or experiencing vandalism or violence. That is a good thing, and it goes beyond the simple issuing of fixed-penalty notices. That is not to say—and I have said this already—that they do not play an important role in tackling crime; they do, but the other areas that I have highlighted are critical.

As a number of members have pointed out, we live in an age of austerity. We have seen an increase in the use of food banks, a rise in rent arrears and the roll-out and impact of universal credit mean that, for many in areas of deprivation and poverty and, indeed, those on low incomes who are struggling to make ends meet, it could be very difficult for those who have committed an offence to pay a higher fine. I am sure that Liam Kerr will accept that we want to avoid the situation where individuals become trapped in and unable to escape the justice system.

The Presiding Officer: I ask the member to conclude, please.

Shona Robison: We should also remember that the police issue fixed-penalty notices on a discretionary basis—

The Presiding Officer: If the member could conclude, please.

Shona Robison: We all agree that Scotland's police should have the powers that they need to do their job effectively and help protect the public.

As many members have said, this is a complex issue that goes beyond the use of fixed-penalty notices, and the debate needs to be seen in that context.

The Presiding Officer: We move to the closing speeches. I call Daniel Johnson to close for Labour.

16:47

Daniel Johnson: The debate has been interesting and useful, and there have been both agreement and disagreement. Let me start with something that I think we all agree on: the importance of intervening in behaviours early and before they escalate to the point where they become criminal. Likewise, we will all recognise that the vast bulk of what the police actually deal with from day to day probably is not in the sphere of criminality, and it is therefore clearly important that we give them the tools to intervene.

However, the first point of divergence comes with regard to whether the simple proposal that the Conservatives have made this evening is sufficient or evidenced. I do not think that it is evidenced, and I have sought to amend the motion to ensure that we can consider the proposal within a much broader context of other measures. We cannot unequivocally support an increase in fixed penalties. We need to review their use and perhaps the level of the fines, but we cannot do so without evidence.

The number of notices issued have been used by members on various sides of the chamber as evidence of either success or failure. The Conservatives have suggested that the decline in their use is a sign of failure, while others have used the very same numbers to suggest that crime itself is declining. I think that the issue is much more complicated than that. It might well be a sign that the notices are not being used properly, but it might also be a sign that the police simply do not have the time to deal with the issues, because of other higher priorities. I would not like to say definitively what it is, because the issue is complicated and we need evidence.

I thought that members made some good points about whether such an increase would prove to be a deterrent. As John Finnie asked, does doubling the fine alter the behaviour of someone who is

being drunk and disorderly? Richard Lyle also put it very well when he asked whether, by doubling the fine and increasing the chances of non-payment and bringing someone into the sphere of the courts and criminality, we would simply make the problem worse. Those are the questions that need to be considered before we can say definitively, one way or the other, that such a proposal should be introduced.

The second point of divergence comes with the logic behind such an approach. As Liam McArthur pointed out, we need to take care here. Is there a need to say that some behaviours are more serious and, in that case, are police powers of escalation sufficient to deal with the issue? That is an open question that needs to be probed.

Likewise, I refer to John Finnie's comments and to the fact that the penalty notices are summary and do not have any form of appeal or redress. These are useful notices, but they are summary and complex and we need to take care.

Finally, it is impossible to talk about these issues without considering the wider social context in which these behaviours and criminality take place. Poverty is the biggest single contributory factor to crime; if we want to tackle crime, we should focus on disadvantage and inequality.

I urge the representatives of the two parties in this chamber that represent Governments to think very carefully about whether the decisions of their parties are helping or hindering us in tackling those wider issues. For example, do cuts to social security and local services—more than £40 million worth of cuts to local services are being considered in this city—improve the social context and our ability to tackle the issues? I gently urge both parties to think about whether those decisions make it easier or harder to tackle crime.

16:51

Ash Denham: I have listened to this afternoon's discussion with great interest and I am pleased that there is so much commitment across the chamber to tackling antisocial behaviour, even though, as Daniel Johnson outlined, there is divergence about the ways in which to do that.

Like others in the chamber, I am not entirely clear about what the Conservatives are suggesting. There was quite a lack of detail in the proposal that they put forward this afternoon. Liam Kerr's motion suggests a higher level of fixed-penalty notice for "more serious antisocial behaviour", as he describes it, but many, if not all, of the acts that could be referred to as "more serious antisocial behaviour" are already likely to attract criminal charges, which would be the appropriate police response in those cases.

When considering whether there are benefits to change, we must ensure, as a number of speakers mentioned, that the evidence supports it, that there is demand for such change from the experts who work directly on these issues and that we fully consider the consequences, intended and unintended, before we move forward.

Let us be in no doubt that we need to take a smart justice approach to resolving our social issues. It is wrong to believe that a welfare-based approach means that people are not being held to account for their actions. It actually means that interventions are designed to divert the individual from a path that could lead to a life of crime, so that they can instead make a positive contribution to our country and our future. Of course, fixed-penalty notices have a role to play. However, let us first and foremost be clear that our aim is to apply the intervention that will have the best outcome for society as a whole.

Statistics that were published yesterday on criminal proceedings in Scotland show a further decline in the use of antisocial behaviour fixed-penalty notices. Although operational policing is, of course, a matter for Police Scotland and prosecution policy is a matter for the Crown Office, which works closely with Police Scotland to ensure that effective approaches to enforcing justice are taken, such a decrease may indicate that our justice partners are considering other ways to tackle antisocial behaviour. It is absolutely right that partners consider the effectiveness of different approaches and adjust those when more effective interventions are identified. We do not believe that a one-size-fits-all approach to tackling antisocial behaviour is appropriate.

Liam Kerr: There were 41,500 incidents of antisocial behaviour in Edinburgh last year, which is 2,000 more than the previous year. Does the minister consider that acceptable? If not, should we not at least try a two-tier approach?

Ash Denham: Again, the lack of clarity in the Conservative proposal means that we cannot support it at this point.

I take issue with the statistics that many Conservative members have used this afternoon, because I cannot see that trend in my own statistics [*Laughter.*] The long-term trend is that antisocial behaviour is down. I hear the Conservatives laughing, but the Conservatives like to use data from police force reports, which showed a slight increase last year, yet the report for the first quarter of this year shows that the number of reports is down again. That is why it is important to look at the overall long-term trend, which is downwards and does not support what the Conservatives have been saying this afternoon.

We recognise that antisocial behaviour does not remain static and that delivery partners need to continuously assess the best approaches that are available to encourage perpetrators to change their behaviour and to secure further reductions in offending through smart justice responses.

Again, I assure members that we remain absolutely committed to ensuring that police and local authorities have the power and resources to further reduce antisocial behaviour, which is why our approach to tackling antisocial behaviour is constantly kept under review. We remain confident that maintaining the focus on prevention and continuing to support delivery of the antisocial behaviour framework through partnership, and the many other initiatives that are being taken forward by our partners in communities across Scotland will provide the best chance of improvement in quality of life for everybody in all our communities.

Let us not forget that all available evidence shows a long-term reduction in violent crime in Scotland. Reconviction rates are at their lowest for 19 years, and recorded crime in Scotland is at its second lowest level since 1974. Those achievements are the result of taking a smart justice approach that is based on evidence, partnership working, and recognising that one size does not fit all and that delivering positive outcomes for communities and society as a whole will deliver the Scotland that we all want to see.

16:55

Michelle Ballantyne (South Scotland) (Con): My colleague Liam Kerr brought his motion to the chamber today for one simple reason: antisocial behaviour is rising and it is not a victimless crime. Every day across Scotland, people of all ages are experiencing irritation, frustration and, in some cases, fear because individuals feel free to impose their socially unacceptable behaviours on others with impunity.

Margaret Mitchell gave two examples of how antisocial behaviour can destroy lives. Liam McArthur and Rona Mackay said that they did not understand the motion or why it had been brought, and the suggestion appeared to be that there is not really an issue to tackle. Straight after that, however, we heard from Claire Baker, who described the impact of the misuse of off-road bikes. A more significant fixed-penalty notice would be perfect in that case.

Liam Kerr eloquently laid out the need for on-the-spot fines for certain categories of antisocial behaviour, and our motion today is a simple proposition.

Ash Denham: Will the member take an intervention?

Michelle Ballantyne: Not right now.

The single fine is too blunt an instrument to tackle such a complex issue. It does not allow the police to differentiate between low-level antisocial behaviour and the more serious incident that does not require court intervention. We have heard that, in other nations in the UK, there is a two-tier system that gives officers greater discretion to deal with offenders, and that has attracted interest from Police Scotland.

In all the discussion—there is a hell of a lot of discussion going on right now—there seems to be a perception that antisocial behaviour is always to do with offenders who need a great deal of intervention. However, it is often individuals on a drunken night out or people hanging around in town who are not set on a life of crime but whose behaviour on that night causes significant concern to the communities they live in or the people around them. The whole point about fixed-penalty notices is that they send such people a clear message on that day, without any subsequent consequences, that they should not behave like that.

Ash Denham: I would like the member to lay out the evidence so that everyone in the chamber can understand why increasing the penalty in the way that she is suggesting would make any difference to the level of antisocial behaviour.

The Presiding Officer: If members would listen, that would also be helpful.

Michelle Ballantyne: Yes, wouldn't it just?

From what the minister said earlier, she probably does not have the Police Scotland statistics in front of her. They show that there were 343,570 incidents of antisocial behaviour in the past year. That is 940 incidents a day. Can we really argue that no action is needed?

According to the Scottish crime and justice survey, 63 per cent of all crimes in Scotland go unreported. If that is correct, and I am sorry if the minister does not have that figure in front of her, what we are seeing in the official figures for antisocial behaviour is only the tip of a very large iceberg.

Of course, it is important to remember that antisocial behaviour is closely linked to other factors in our communities. Daniel Johnson talked about that in his contribution, as did the minister in her opening remarks. She also talked about the benefit of early intervention. I was one of the original members of the early and effective intervention team in my local area, so I have no problem with supporting what the Government has done on that. It works and it is a super process for taking people who are on the edge of early crime into a system that will prevent them from going

down the crime route. That is not what this motion is about. It is about the one-off antisocial behaviours that people need to understand are not acceptable.

I suspect that I will run out of time, because this has all dragged on somewhat. I will sum up. I understand that people across the chamber have argued that they are a wee bit confused and do not really understand the issue. I will bring it back to a point of clarity. We have an antisocial behaviour problem in Scotland; in fact, most countries do. The issue is about whether we can tackle it effectively. The Government has brought forward good policies, which I support, as do the other Conservative members. This is not a criticism of what the Government has done to date.

The issue is about how the police on the ground can tackle incidents of antisocial behaviour without dragging them into the court system and without making them part of an early and effective intervention system. This is about sending a clear message to those off-road bikers: "You do not come here again. You do not do this again." With the current level of fine, it is worth it for some people to get an off-road bike out for the day and then happily pay the fine. A higher level of fine would make them weigh it up and say, "Do I really want to pay that amount for coming out on my bike?"

That is the point of the motion. We ask the Government to support having a higher level of fine that is appropriate for antisocial behaviour. It is a simple ask. If the answer is no, the Government is saying that it recognises the problem but is not willing to take the action.

We will support the Labour amendment this evening; I support a lot of what Labour members have said on the wider issues, which have been mentioned by others. We hope that the Government would consider the motion and not just reject it out of hand by talking about its other actions.

Business Motions

17:02

The Presiding Officer (Ken Macintosh): The next item is consideration of business motion S5M-15623, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees—

(a) the following programme of business—

Tuesday 5 February 2019

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Topical Questions (if selected)

followed by Ministerial Statement: Publication of Scotland's Forestry Strategy 2019 - 2029

followed by Stage 1 Debate: Vulnerable Witnesses (Scotland) Bill

followed by Financial Resolution: Vulnerable Witnesses (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 6 February 2019

1.30 pm Parliamentary Bureau Motions

1.30 pm Ministerial Statement: Response to the Latest EU Exit Vote in Westminster

followed by Portfolio Questions: Education and Skills

followed by Rural Economy and Connectivity Committee Debate: Inquiry into Salmon Farming in Scotland

followed by Business Motions

followed by Parliamentary Bureau Motions

5.15 pm Decision Time

followed by Members' Business

Thursday 7 February 2019

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 Stage 1 Debate: Management of Offenders (Scotland) Bill

followed by Financial Resolution: Management of Offenders (Scotland) Bill

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

Tuesday 19 February 2019

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Topical Questions (if selected)

followed by Preliminary Stage Debate: Hutchesons' Hospital Transfer and Dissolution (Scotland) Bill

followed by Scottish Government Debate: Scottish Rate Resolution

followed by Committee Announcements

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 20 February 2019

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions: Health and Sport

followed by Stage 1 Debate: Fuel Poverty (Target, Definition and Strategy) (Scotland) Bill

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 21 February 2019

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 Stage 3 Proceedings: Budget (Scotland) (No.3) Bill

5.00 pm Decision Time

(b) that, in relation to any debate on a business motion setting out a business programme taken on Wednesday 6 February 2019, the second sentence of rule 8.11.3 is suspended and replaced with "Any Member may speak on the motion at the discretion of the Presiding Officer"

and

(c) that, in relation to First Minister's Questions on Thursday 7 February 2019, in rule 13.6.2, insert at end "and may provide an opportunity for Party Leaders or their representatives to question the First Minister".—[*Graeme Dey*]

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S5M-

15621, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, on the stage 1 timetable for a bill.

Motion moved,

That the Parliament agrees that consideration of the Climate Change (Emissions Reduction Targets) (Scotland) Bill at stage 1 be extended to 15 March 2019.—[*Graeme Dey*]

Motion agreed to.

Parliamentary Bureau Motion

17:03

The Presiding Officer (Ken Macintosh): The next item is consideration of Parliamentary Bureau motion S5M-15622, on approval of a Scottish statutory instrument.

Motion moved,

That the Parliament agrees that the Cremation (Scotland) Regulations 2019 [draft] be approved.—[*Graeme Dey*]

Decision Time

17:03

The Presiding Officer (Ken Macintosh): The first question is, that amendment S5M-15607.2, in the name of John Swinney, which seeks to amend motion S5M-15607, in the name of Liz Smith, on the presumption to mainstream, be agreed to.

Amendment agreed to.

The Presiding Officer: The next question is, that amendment S5M-15607.1, in the name of Iain Gray, which seeks to amend motion S5M-15607, in the name of Liz Smith, on the presumption to mainstream, as amended, 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)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Macdonald, Lewis (North East Scotland) (Lab)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McNeill, Pauline (Glasgow) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, David (Highlands and Islands) (Lab)
 Wightman, Andy (Lothian) (Green)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Campbell, Aileen (Clydesdale) (SNP)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)

Constance, Angela (Almond Valley) (SNP)
 Corry, Maurice (West Scotland) (Con)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (West Scotland) (Con)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greene, Jamie (West Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harper, Emma (South Scotland) (SNP)
 Harris, Alison (Central Scotland) (Con)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lindhurst, Gordon (Lothian) (Con)
 Lochhead, Richard (Moray) (SNP)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 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)
 Mason, Tom (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)

Tomkins, Adam (Glasgow) (Con)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wells, Annie (Glasgow) (Con)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division is: For 27, Against 92, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: The next question is, that motion S5M-15607, in the name of Liz Smith, on the presumption to mainstream, as amended, be agreed to.

Motion, as amended, agreed to.

That the Parliament notes the comments made by the OECD that inclusion is one of the key strengths of the Scottish education system; believes that the presumption to mainstream pupils has laudable intentions and that it works well for the majority of young people in Scotland's schools; recognises however the very considerable concern that has been expressed by many teachers, teaching assistants, children's charities and parents' groups that a growing number of young people with special educational needs are not being well served by being placed in inclusive mainstream education; believes that this is putting additional pressures on teachers and young people in classrooms across Scotland, making it more difficult to support the individual needs of each child; in light of the recent evidence presented to Parliament, calls on the Scottish Government to work with local government partners to review the presumption to mainstream policy to ensure there can be more effective uptake of the provision of places in special schools and specialist units and utilisation of specialist staff, and, agrees that this review should be founded on a continuing commitment to a presumption to mainstream and on the need to ensure that children and young people's additional support needs are met, to enable them to reach their full potential, from within whichever learning provision best suits their learning needs, and notes the forthcoming publication of revised guidance, tools and advice for school staff, and national research, on the experiences of children and young people with additional support needs.

The Presiding Officer: The next question is, that amendment S5M-15615.2, in the name of Ash Denham, which seeks to amend motion S5M-15615, in the name of Liam Kerr, on tackling antisocial behaviour, be agreed to. If the amendment is agreed to, the amendment in the name of Daniel Johnson will fall. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (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)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)

Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (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)
 Johnstone, Alison (Lothian) (Green)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 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)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

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

Ballantyne, Michelle (South Scotland) (Con)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Corry, Maurice (West Scotland) (Con)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Griffin, Mark (Central Scotland) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kelly, James (Glasgow) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Mason, Tom (North East Scotland) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

The Presiding Officer: The result of the division is: For 69, Against 50, Abstentions 0.

Amendment agreed to.

The Presiding Officer: The amendment in the name of Daniel Johnson therefore falls.

The next question is, that motion S5M-15615, in the name of Liam Kerr, on tackling antisocial behaviour, as amended, be agreed to.

Motion, as amended, agreed to.

That the Parliament recognises that fixed penalty notices play an important role in tackling antisocial behaviour when used as part of a comprehensive package of penalties and interventions, which include diversionary, early intervention and preventative activities that are aimed at steering individuals away from antisocial behaviour whenever possible, and calls on the Scottish Government to keep all of these approaches under review by working with Police Scotland, local authorities and the court services to ensure that appropriate and proportionate penalties and/or

interventions are applied to deliver the best outcomes for victims and wider society.

The Presiding Officer: The final question is, that motion S5M-15622, in the name of Graeme Dey, on the approval of a Scottish statutory instrument, be agreed to.

Motion agreed to.

That the Parliament agrees that the Cremation (Scotland) Regulations 2019 [draft] be approved.

The Presiding Officer: That concludes decision time.

Equally Safe at Work

The Deputy Presiding Officer (Christine Grahame): The next item of business is a members' business debate on motion S5M-15427, in the name of Gail Ross, on the equally safe at work accreditation scheme. The debate will be concluded without any question being put.

Motion debated,

That the Parliament welcomes the launch of the new employer accreditation programme pilot, Equally Safe at Work; notes that this has been developed by Close the Gap, which it considers to be Scotland's women and the labour market expert; understands that it will be piloted by local government and is part of the implementation of Equally Safe, which is Scotland's strategy to prevent and eradicate all forms of violence against women and girls; welcomes the introduction of what it sees as this world-leading and innovative programme, which recognises that gender inequality is the root cause of violence against women and that addressing labour market inequality is a key step in ending this; considers that both the pilot accreditation programme and strategy are essential to achieving these aims; believes that the latest evidence suggests that over 70% of women in Scotland have reported experiencing or witnessing sexual harassment in the workplace and that one-in-five will experience domestic abuse at some point in their life; understands that throughout the 2019 pilot, Close the Gap will work closely with The Highland, Aberdeen City, Midlothian, North Lanarkshire, Perth and Kinross, Shetland and South Lanarkshire councils, supporting them to work toward accreditation by taking the necessary steps to address the causes of their gender pay gaps and to better support employees who have experienced gender-based violence; believes that it will help and encourage employers to advance gender equality in the workplace and in wider society, challenge violence against women and create genuinely inclusive cultures that play a crucial role in preventing such violence, and wishes Close the Gap every success as it takes forward what it sees as this invaluable accreditation programme.

17:08

Gail Ross (Caithness, Sutherland and Ross) (SNP): I am delighted to open this evening's debate on the equally safe at work accreditation scheme. I am particularly pleased to see so many members attending on a day that marks the official launch of the scheme. I want to thank the members who signed the motion and those who intend to speak in the debate.

I welcome Ruth Boyle and Kelsey Smith from Close the Gap to the gallery, and thank them for hosting a drop-in session for MSPs in Parliament today.

Scotland's equally safe strategy is a fantastic example of partnership working between the Scottish Government and the Convention of Scottish Local Authorities, in association with a wide range of partners from the public and third sectors. That partnership recognises the importance of working together to tackle and,

ultimately, to eradicate violence against women and girls. First published in 2014, "Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls" was revised in 2016, and in November 2017 "Equally Safe: A Delivery Plan for Scotland's strategy to prevent and eradicate violence against women and girls 2017-21" was published to promote collaboration. In November 2018, a report was produced, in which the significant activity and progress on the delivery plan were measured.

Earlier today, as part of the overall strategy, Close the Gap formally launched the equally safe at work accreditation programme, which aims to address the causes of the gender pay gap and to ensure that there is better support for employees who have experienced gender-based violence.

Close the Gap is Scotland's expert policy and advocacy organisation on women's labour market participation. As part of its work to support the equally safe strategy, Close the Gap reviewed international practice and found no existing employer accreditation programme that focuses on violence against women, gender inequality and the workplace.

Poverty in Scotland is gendered. The gender pay gap is the difference between men and women's hourly pay and is the result of a range of factors, including lack of flexible working opportunities, perceptions about gender-appropriate jobs, and grading structures. Women's inequality at work is a key contributor to the higher rates of poverty among women. Women are twice as dependent on social security as men are, so they have been disproportionately affected by welfare reform. Women's economic inequality reduces their financial independence, restricts their choices—in employment and in life—and can create an environment in which violence against women is more likely.

The world-leading equally safe at work accreditation programme is pioneering, in that it makes that link and focuses on the employer's role in preventing violence against women. The pilot programme provides participating employers with a framework to support their work, along with a detailed handbook that offers evidence-based advice and best practice.

For too long, some employers have regarded violence against women, domestic violence and gender inequality as issues for others to deal with, which do not need to be tackled in the workplace. The programme seeks to change such attitudes by providing support and guidance in order to ensure that employers are in a position to support the implementation of the equally safe strategy. It is crucial that employers recognise their role in tackling inequality and gender-based violence.

After the decision was taken to establish the accreditation scheme, Scotland's councils were asked to express whether they were interested in participating in the pilot programme. I was satisfied to hear that all 32 of our councils responded positively. That is a clear demonstration of the commitment of local government to the ambition to eradicate violence against women.

The councils were asked to complete a self-assessment of their equality measures, and seven were subsequently selected to take part in the pilot scheme. There was recognition of the different stages that councils have reached and the need for geographical spread. Over 2019, the Highland Council, Aberdeen City Council, Midlothian Council, North Lanarkshire Council, Perth and Kinross Council, Shetland Islands Council and South Lanarkshire Council will work towards achieving accreditation by taking the necessary steps to address the cause of their gender pay gaps, and to better support employees who have experienced gender-based violence.

Alongside the pilot group, a shadow group has been established that includes councils that completed a self-assessment but were not selected for the pilot. It is hoped that those councils will be involved in the next phase of the accreditation scheme.

Each pilot council will undertake an employee survey from February, and the exercise will be repeated towards the end of the pilot year in order to measure the change in attitudes and awareness, and to demonstrate improved understanding of gender violence and the role of the employer.

I am sure that members are wondering why we need an accreditation scheme. Each year, more than 3 million women in the United Kingdom experience violence, and many more experience abuse. Violence and abuse affect all aspects of a woman's life, and the workplace is no exception. In many ways, employers are uniquely placed to support women to find the help that they need and stay in work.

Perpetrators of domestic abuse and stalking often use workplace resources including phones and email to threaten, harass and abuse. Tactics such as sabotage, stalking and harassment at work have an effect on women's productivity, absenteeism and job retention.

Sexual harassment in the workplace is now a high-profile issue, and there is increasing pressure on employers to take action. Women report that sexual harassment has a negative impact on their mental health. Some women avoid certain work situations in order to avoid the perpetrator. All those effects and responses are also likely to diminish women's performance and confidence,

and to reduce the likelihood that they will apply for promoted posts.

In the Highland Council area alone, 2,336 incidents of domestic abuse were recorded by the police in 2017-18. Those are only the cases that were reported: we know that many others are never reported. Our local councils are our largest employers, which places them in a unique position to make a real change to attitudes. The launch of the equally safe at work accreditation scheme places Scotland at the forefront of actions to tackle violence against women and girls.

I very much look forward to hearing the outcomes from the pilot programme at the end of the year, and to the first councils being awarded their accreditations. I thank the minister in advance of her closing statement, because I know that she has worked very closely on the subject.

17:16

Rona Mackay (Strathkelvin and Bearsden) (SNP): I thank Gail Ross for bringing this important debate to the chamber. It is important to all of us as we strive to make equality and protection for women and girls absolutely mandatory. I also thank Close the Gap for its comprehensive briefing.

As Gail Ross explained, equally safe at work is a world-leading employer accreditation programme that is being piloted throughout 2019 in the seven councils that she referred to. The programme is being developed by Close the Gap and supports the implementation of "Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls". The strategy recognises that violence against women is a cause and consequence of gender inequality. As co-convenor of the cross-party group on violence against women and children, I know that the reality of gender-based violence is shocking.

The programme focuses on women in the workplace, which is a fundamental step in addressing gender-based violence generally in society. As Gail Ross outlined with her statistics, violence against women is perpetrated at epidemic levels: 3 million women experience violence each year in the UK and many more women live with past experiences of abuse. It is a violation of women's human rights and an enduring social problem that should not exist in 2019. It affects all aspects of women's lives and the workplace is no exception. It is vital that employers understand the impact of gender-based violence on women so that they can support women better at work and can help them to access the support services that they need.

The economic cost of violence against women in the UK is estimated to be £40 billion, which

includes the cost to public services and the lost economic output of affected women. Domestic abuse is estimated to cost the UK £16 billion, which includes an estimated £1.9 billion lost due to decreased productivity, administrative difficulties from unplanned time off, lost wages and sick pay.

However, for me it is about much more than money; it is about the degradation of women and the abuse of their human right to be treated with respect. One in five women in Scotland experience domestic abuse in their lifetime, and three quarters of women are targeted at work. That is shocking. Perpetrators of domestic abuse and stalking often use workplace resources such as phones and email to threaten, harass and abuse their current or former partners, or even strangers.

Studies have shown that the emerging practice of co-working or hot desking, leaves women with no protection against predators. That must be addressed urgently, with clear guidelines applied to those using and renting workspace. Research on experiences of sexual harassment at work is likely to be affected by underreporting because most women do not report it from fear of being blamed and a lack of confidence in complaints procedures.

As Gail Ross said, women report that sexual harassment has a negative impact on their mental health, which makes them less confident at work and induces them to stay away from certain work situations to avoid coming into contact with the perpetrator. That severely affects women's chances for progression at work and exacerbates the gender pay gap, not to mention their own financial situation and confidence.

Equally safe at work will support councils to develop an increased capacity for addressing those inequalities and for better supporting female employees who have experienced gender-based violence. As Gail said, it provides employers with a framework that provides evidence-based advice and guidance and best practice.

Equally safe at work is a good initiative. It will play a vital part in protecting women in the workplace. I hope that the pilot can be rolled out to as many workplaces as possible, so that they can learn from good practice. Women must be protected in the workplace.

The Deputy Presiding Officer: Chatty and friendly though this debate is, I gently remind members to use full names when referring to colleagues in the chamber.

17:20

Annie Wells (Glasgow) (Con): I thank Gail Ross for bringing this extremely important topic to the chamber today.

Last November, I participated in a debate on ending violence against women and girls. During the debate, we acknowledged the importance of tackling sexual harassment and assault in the workplace—an issue that has garnered a lot of attention due to the #MeToo and time's up campaigns.

Too many women in this country remain subject to sexual harassment and assault in their everyday employment. Following the widespread sharing of stories in the wake of the Weinstein scandal, we began to understand the extent of the problem. A poll has shown that half of British women and a fifth of men have been sexually harassed at work or at a place of study. Of those victims, 63 and 79 per cent kept that to themselves.

In the wake of the campaigns, it is encouraging to see pressure for change. In the Scottish Parliament, culture of respect workshops, which are open to all staff and MSPs, are being held. Outwith this place, I am encouraged to see the setting up of the new employer accreditation programme pilot, and I thank Close the Gap for its efforts in developing it. I will be very interested in hearing how the pilot develops over the year and how best practice can be encouraged in the private and public sectors. At the very least, it should be clear in every workplace in Scotland whom employees can make their complaints to and how they will be handled. It should also be clear what constitutes sexual harassment at work. Despite the impact of the #MeToo and time's up campaigns, there is still a lot of confusion about what exactly sexual harassment is. That needs to be clarified in the mind of the public, and I am interested in looking into that issue.

Employers have a vital part to play in advancing gender equality and creating a safe environment for women. As Close the Gap points out, that will involve preventing violence against women at work and employers considering women's different experiences in all aspects of the workplace. Women are concentrated in undervalued, low-paid jobs such as admin and cleaning, and they are vastly underrepresented in management and senior positions. By creating greater economic equality between men and women, and by increasing women's choices in employment, the risk factors leading to a woman's resilience being diminished in the workplace can be reduced. That is a hugely important topic in itself, but it is one that, unfortunately, we do not have time to debate today.

At present, women are estimated to earn £70,000 less over their lifetime than men because of the gender pay gap, and that labour inequality costs the Scottish economy £17 billion a year. Those figures are stark, and it is time that we had a frank discussion on bold measures for childcare, flexible working and inspiring young women through educational reform. Only through societal change will women be able to reach their full potential.

I again express my support for the employer accreditation programme pilot and for all efforts at eradicating gender-based violence in the workplace. No woman—or man—should be subject to such behaviour, and it is vital that we stand shoulder to shoulder in condemning it. I hope that, through societal discussion and initiatives that embed a good ethos in our workplaces, real progress is made.

17:24

Jackie Baillie (Dumbarton) (Lab): I, too, thank Gail Ross for bringing such an important issue to the chamber and for the content of her speech. I also thank Close the Gap for providing such a useful briefing.

This is not the first time that I have stood up in the chamber and spoken about why gender inequality has no place in any aspect of our society and why violence against women and girls simply cannot go on any longer. In the very first session of the Parliament, I was the minister with responsibility for equalities and tackling domestic abuse, so such issues are not new to me. Progress has been made across Governments of different political hues, but there is still much to be done.

I whole-heartedly support the work that is being done by Close the Gap in its fight to eradicate gender-based inequalities from our workplace. Its work is integral to understanding the embedded, societal reasons for women, all too often, coming second to men in the workplace. More important, it understands how in-depth legislative changes and a re-evaluation of the whole labour market must occur if we hope to make a step in the right direction towards ending workplace gender discrimination. The fight is far bigger than just trying to change the stubborn attitudes of a select few.

The equally safe at work strategy is a pioneering programme in incorporating the role and the duty of care of the employer as a way of preventing and ending domestic violence. I am encouraged to learn that—as others have referenced—seven Scottish local authorities will pilot the strategy in 2019. I know that far more have expressed an interest, including the councils in West

Dunbartonshire and Argyll and Bute, in my part of the country. In fact, as Gail Ross said, every local authority responded to the request for an expression of interest. There is a shadow group of early adopters for when the programme is rolled out after the pilot, which is encouraging.

Women who suffer domestic abuse often do not know where to turn for support. They do not know whom they can trust or, all too often, who will believe them. The workplace should—and must—be a safe haven for women who are being abused. Employers must be properly trained and equipped to support employees who come to them seeking support and advice. However, we must ask ourselves wider questions. How can a woman feel confident that her employer will support her when she sees how embedded gender discrimination still is in workplaces across the country? How can she hope to feel sufficiently financially independent to leave an abusive relationship when the gender pay gap is all too rife in our society? When 52 per cent of women in the UK have admitted to experiencing sexual harassment at work, the importance of the work that is carried out by the equally safe at work strategy should not be underestimated.

For decades, women have been pigeonholed into gender-appropriate jobs while keeping quiet and shrugging off sexual harassment for fear of being further discriminated against. Through evidence-based advice and guidance, employers will, for the first time, be adequately equipped to support female employees who suffer from abuse, harassment or discrimination. That is a significant breakthrough in how we deal with gender inequality and sexual harassment in a professional setting, and I hope that that approach will spread through every aspect of society.

In closing, I appeal to my colleagues—both those who are here, in the chamber, and those who are unable to join us this evening—to follow the groundbreaking work of Close the Gap. The Scottish Parliament is a large workplace, and each and every one of its members is an employer to a number of staff who are based either in this building or across Scotland. We have a duty of care to protect our employees, and it should be our priority not to discriminate against them on the basis of their gender. Our staff have the right to come to work without fear of sexual harassment. In the unfortunate cases in which they may be victims of domestic abuse, it is vital that, as employers, we ensure that support for them is in place so that they can be made to feel safe and protected. I hope that we will lead by example to ensure that workers across Scotland are truly equally safe.

17:28

John Finnie (Highlands and Islands) (Green): I congratulate Gail Ross on bringing this very important issue to the chamber. I welcome the launch of the equally safe strategy and commend the work of Close the Gap. I should declare that, along with my colleague Rona Mackay and others, I am a co-convenor of the cross-party group on men's violence against women and children. We undoubtedly face significant challenges in that area. Equally safe, which is Scotland's strategy to prevent and eradicate all forms of violence against women and girls, is hugely important. However, tackling gender-based violence requires cohesion, and that must be addressed very robustly.

I welcome the participation of Close the Gap in the labour market, which I think will be a very valuable contribution. I note that it works with policy makers—including people in the Parliament—employers and employees to influence and enable action to address the causes of women's inequality at work. My colleague Gail Ross outlined a number of those causes, which I will not repeat.

Others have talked about the leadership role that the Parliament and members should be taking, which is pivotal. The issue is a cross-party one, and there should be no divergence on it. There is an important role for men to play in calling out the great challenges that remain, which is why I commend the work of White Ribbon Scotland. On Friday, I will join other male politicians to promote its initiative, which involves working in betting shops to make it very clear that violence against women is unacceptable.

Partnership working is the key. I was delighted to hear of COSLA's involvement and the response from Scotland's local authorities. Like Jackie Baillie, I am pleased to note that Highland Council and Shetland Islands Council, which are in my region, are involved.

Seventy per cent of women in Scotland have reported experiencing or witnessing sexual harassment in the workplace. That is a damning indictment. We are talking about someone's mother, grandmother, daughter or niece. They are our fellow citizens.

There are obligations on employers to ensure that workplaces are places of safety. As Jackie Baillie said, there is a duty of care. There is also a role for trade unions, staff associations, workers, customers and bystanders—indeed, there is a role for all of us.

A key word in the motion to which I was drawn is "challenge". That will not always mean direct intervention. I know that some people will have concerns that challenging will escalate problems, but the aim is to share, act and never ignore.

One in five women will experience domestic abuse at some point in their life. That statistic shames not just the perpetrators but all of us. We know how pernicious and far reaching such abuse is. In passing the Domestic Abuse (Scotland) Bill, we have examined coercive and controlling behaviour and its reach. The workplace is not beyond that reach; indeed, it is somewhere where people are known to be, and they can often feel trapped.

The hierarchy that is reflected in pay, grading and access to training—the patriarchy at work—has also been alluded to.

I am not an optimist—I am sorry; let me start again, Presiding Officer. I am an optimist, not a pessimist about the matter. Great progress has been made over the years, but it is clear that there is a way to go. The workplace is no different from anywhere else, and education is absolutely the key. I wish Close the Gap and the participating authorities well, and I know that there will be continued interest in the Parliament in what happens.

Once again, I congratulate my colleague Gail Ross on bringing an important issue to the chamber.

The Deputy Presiding Officer: We are very pleased to learn that you are an optimist after all, Mr Finnie.

17:32

Liam McArthur (Orkney Islands) (LD): I join other members in thanking my good friend Gail Ross, and I congratulate her on bringing this important debate to Parliament. As John Finnie suggested, the equally safe at work initiative should and does command cross-party support. I acknowledge and thank Close the Gap for the contribution that it has made and will make.

Obviously, the initiative is part of the wider equally safe strategy. Gail Ross was right to remind us of the collaborative approach that underlies that. That is the only way of ensuring that the strategy enjoys the success that we all wish it to have.

Annie Wells pointed to our debate in November on violence against women and girls. That was an excellent debate. At that stage, we were right to acknowledge the progress that has been made in a number of areas. The Domestic Abuse (Scotland) Act 2018 was fresh in our minds, and the approach that Police Scotland and the Crown Office and Procurator Fiscal Service are taking was commended, but it was acknowledged across the chamber that we have some way to go in addressing concerns. The latest figures on sexual crimes had shown a worrying increase.

It was accepted that men and boys can be and are affected by violence. However, just a cursory glance at the statistics demonstrates beyond any contradiction at all the gendered nature of violence. The reasons for that are perhaps more complex than I will be able to articulate in four minutes. However, Gail Ross was absolutely right in opening the debate to draw a link between violence against women and inequality in society more generally but specifically in the workplace. I looked at figures that suggest that the gender pay gap means that, on average, women in Scotland earn around £183 per week less than men and that over the course of their working life that can result in anything up to around £0.5 million of disparity. That is a colossal divergence in financial independence between women and men.

The Equality and Human Rights Commission report estimated that 54 per cent of women will lose their jobs as a result of becoming pregnant or going on maternity leave, which is a shocking statistic. Jackie Baillie and John Finnie referred to statistics on the levels of sexual harassment at work. It beggars belief that any business would fail to treat its employees equally and fairly. A business that takes a zero tolerance approach to harassment in any form in the workplace is a business that will attract the best and brightest and have a hope of realising its potential as an organisation. There are, therefore, probably many self-serving reasons why businesses should take the issue more seriously.

I am delighted that a number of local authorities have taken up the Close the Gap initiative and that the response across the board has been so positive. I hope that, through debates such as this and our continued interest in the issue, we can encourage other local authorities to do the same. However, for the time being, I wish Close the Gap well and thank Gail Ross again for allowing the Parliament to debate the issue this afternoon.

17:36

Bill Kidd (Glasgow Anniesland) (SNP): I thank Gail Ross and Close the Gap for bringing this important topic to the chamber for debate.

Employers have good reason to take on the task of tackling violence against women, because their place of work may be one of the only spaces—or, sadly, the only space—where a victim of domestic abuse can seek help, as normally the perpetrator is not there. Establishing safe mechanisms for those individuals to approach a trustworthy colleague could make all the difference.

Local authorities, which employ 245,000 people in Scotland, are a good example of a group of employing organisations that are well placed to champion that kind of change. I hope that there

will be a shift in perceptions that will encourage victims of domestic abuse to seek help at work and make the safeguarding of women the norm in human resources policies.

In my contribution to the debate, I want to make two things very clear. First, abuse is never acceptable. We inherently deserve to be treated with dignity, respect and love. If anyone who is listening to this debate thinks that that does not apply to them, they need to hear that they are wrong. There is nothing in this world that strips that birthright away from us. If someone is in an abusive relationship or situation, they are not being treated the right way; they deserve to be treated with dignity, respect and love. No one is an exception to that rule.

Secondly, help is available. For women, Scottish Women's Aid is a good first point of call if they are a victim of domestic abuse. Men who are victims of domestic abuse can go to SurvivorsUK or the Men's Advice Line for help. All those organisations can help someone safely leave a partner and can provide support along the way.

There is a clear moral imperative for employers to provide support for victims of domestic abuse and ensure that the pay gap is closed. Through equal pay, women can become financially independent—that has been said more than once in the debate—and the control that is exerted by an abusive partner is lessened. That task is relevant to employers because, in all likelihood, there will be people in their workforce who are victims of domestic abuse. Moreover, any employee who is experiencing domestic violence will be affected by it while they are at work.

In the UK as a whole, violence against women is estimated to cost £1.9 billion to the economy. Specifically, that is due to decreased productivity, administration difficulties due to unplanned time off work, lost wages and sick pay. Three quarters of women who are experiencing domestic abuse will, while they are at work, be harassed, threatened or abused by their current or former partner. That, of course, has an impact on the victim's ability to work as normal, particularly as work phones and emails are often the way in which the perpetrator continues to make contact.

One in five women in Scotland experiences domestic abuse in their lifetime; it directly affects 553,300 women in Scotland. That means that, for every five women working in a company, statistically speaking one of these employees will have experienced domestic abuse. That is a devastating statistic. We owe it to those women to take seriously our collective responsibility to tackle domestic violence.

Local authorities will make a significant impact by championing the equally safe at work

accreditation programme. I urge all employers listening to this debate to consider seriously what steps they can take to tackle domestic violence among their workforce. For every woman moved into safety, those steps are unequivocally worth it.

17:41

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): I thank Gail Ross for bringing the debate to the chamber today and Close the Gap for its briefing. I am pleased to have the opportunity to speak on the very important issue of equality in the workplace.

No matter what their age, race, background or gender is, everyone should feel safe and comfortable in their workplace. Everyone has a job to do, and no one should ever be held back from achieving or striving to do the very best that they can. Even though attitudes are improving and awareness of harassment in the workplace is increasing, sadly, behaviour and attitudes that are derived from gender inequality perpetuate.

The figures for sexual harassment in the workplace make for grim reading, with almost three quarters of women in Scotland witnessing or experiencing sexual harassment at work. So much more needs to be done to tackle this scourge in our society.

When I learned of the equally safe at work programme through Gail Ross's motion, I decided that it was a vitally important endeavour, which I wanted to support. The programme aims to eradicate violence against women and girls, and it is the only one of its kind. As Jackie Baillie said, it is pioneering.

Although equally safe at work is not being rolled out as a pilot in my area, the Scottish Borders, I wish all those involved in pilots across other parts of Scotland success. I hope that it creates a long-lasting impact on workplaces, building a foundation for change on which to embed a strong culture of gender equality in those organisations and any that take it up in the future. I hope that it proves to be effective, so that we see it across Scotland, not just in local government but in other sectors.

There is no doubt about the negative impact of domestic abuse in the workplace. The programme aims to highlight the effects that domestic abuse has on productivity in the workplace. Many of us take for granted being able to turn up for work ready to face the day and getting on with tasks, meetings, paperwork and email. However, for domestic abuse victims, the days are long and productivity is lost. It is often a hidden issue that must be addressed. Closer to home in the Borders, I am proud of some excellent work that is helping with that, namely the cedar project and

Victim Support Scottish Borders. We want more women who are victims of domestic abuse to come forward, and we have seen evidence of that in an increase in the number of reported incidents. However, we cannot be soft on the abusers. I hope that, with the support of those organisations, women can be helped back into the workplace and that assistance will be given to them in their time of need.

The equally safe at work programme aims to be a successful step forward in tackling workplace harassment and violence against women. I look forward to seeing the positive change that the programme will bring and hope that Close the Gap will explore the larger roll-out. Perhaps Scottish Borders Council will join in the pilot, too.

We have come a long way, but there is even further to go if we are to have true equality in the workplace. Let us keep up the momentum. I thank Gail Ross again and thank Close the Gap for its involvement in this very important project.

17:44

Gillian Martin (Aberdeenshire East) (SNP): Ridding society of gender-based violence, sexual harassment and sexual discrimination starts with advancing gender equality. A specific accreditation scheme to tackle gender equality is long overdue, and I thank Gail Ross for bringing this debate to the chamber and eloquently drawing the link between workplace discrimination and economic insecurity as a cause behind or exacerbator of gender-based violence. For that reason, I am glad that Close the Gap is the leader in the initiative.

I want to look at some of that inequality. We are just at the pilot stage of the equally safe at work scheme, but I hope that, beyond that point, it can be rolled out to the private sector for employers to take up on a voluntary basis, because my experience has been that the greatest change has to happen there. The precarious work that can leave a woman unable to leave a violent partner because of economic insecurity largely exists in the private sector. That inequality is apparent in the gender pay gap, which is a symptom of a workplace culture born out of stubborn gender stereotypes and systematic inequality.

Career progression should not be dependent on whether a woman has caring responsibilities. I have heard about plenty of women being asked by employers whether they are planning to start a family, but never men. I have told the story before of telling a former boss that I was expecting my first child. His knee-jerk reaction was to say, "I thought you were interested in your career." Every time I tell that story, I have other women telling me similar stories or worse—women being quietly dropped from management training programmes,

projects being given to someone else and opportunities melting away like snow off a dyke, but never blatantly, of course.

After I asked for a pay rise many years ago, the same boss likened me to his wife, who, he told me, also liked “a bit of extra pin money.” I was a producer in corporate video production. I was not asking my man for money for a coat I had seen in the Co-operative, like a 1950s housewife. The boss probably meant no harm by those comments, but I felt angry and humiliated, and they are reflective of a wider culture that diminishes female employees’ status.

Both of those instances were over 20 years ago, but I have seen plenty of women being sidelined since then. Discrimination and offence in the workplace with regard to pregnant workers and mothers is just one part of a suite of harassment and discrimination, and the problem is particularly acute in the private sector. Constructive dismissal of pregnant women is rife. I once witnessed a colleague of mine have her duties and responsibilities reshaped and reassigned to other people as part of a so-called restructure after a company takeover. She resigned due to the upset and stress, which left her with no maternity benefits.

It is estimated that 54,000 women each year lose their jobs as a result of becoming pregnant, but the full picture may be masked by the widespread abuse of non-disclosure agreements in the private sector. Additionally, zero-hours contracts allow employers to simply reject any worker, regardless of circumstances, and we know that women are more likely to have a zero-hours situation. In those cases, if a woman falls pregnant, they can often fall off the rota.

Losing one’s job is perhaps the extreme of discrimination, but being pregnant at work can often lead to comments that the perpetrator thinks are innocent or even friendly but which diminish, disrespect and embarrass the women who are on the receiving end. Inappropriate comments about whether they will come back to work and what arrangements they will make when they return to work or assumptions that they will not be able to continue at the level that they are currently at or do as much work are bandied about pretty much every day. No one ever comments on those things when someone is an expectant father.

All those things might sound harmless, but they are not. They contribute to a view that mothers are not good promotion prospects and are of less value than their male counterparts. Engender has stated:

“despite political leadership on women’s equality at the Scotland level, there is a widespread and systemic failure to grasp the challenge of mainstreaming across public

authorities. Women’s equality within the public sector has largely stalled as a result.”

The public sector is just the start. The private sector must be fully involved, too, if we are to make universal, systematic change. I hope that we will get to that point soon.

17:49

The Minister for Older People and Equalities (Christina McKelvie): I thank Gail Ross for bringing this very important debate to the chamber on the day when we launched the pilot, and I thank all colleagues across the chamber for their important contributions. I think that I am going to touch on what everybody had to say.

Violence against women and girls cannot and must not be allowed. We have already said that. Such violence pervades every aspect of women’s lives, and the workplace is no exception. We have heard clear examples of that. As we know, such violence comes at a huge cost. It inhibits women and girls from realising their true potential, requires the diversion of resources for crisis and immediate intervention and has a toxic impact on our wider society.

John Finnie rightly commended the work of White Ribbon Scotland in reminding us that men have a key role to play here and that none of us should be bystanders.

The Government, this Parliament and society as a whole have a responsibility to take action to end violence against women and girls. To achieve success, we must work together and leave no one behind. Rona Mackay and John Finnie talked about the cross-party group on men’s violence against women and children, which is a perfect example of politicians across parties working with stakeholders to advance and progress the policies of this place on ending that violence. Jackie Baillie reminded us that progress has been made over the 20 years of this Parliament, and we should all be proud that we have worked together to achieve that.

Our equally safe strategy has been described as “the best violence against women strategy in Europe.”

It has a decisive focus on prevention, it seeks to strengthen national and local collaborative working to ensure effective interventions for victims and those at risk, and it contains a clear ambition to strengthen the justice response to victims and perpetrators.

Our strategy prioritises primary prevention, and we have already made progress in taking forward many of the actions in our associated delivery plan, particularly in our approach to ensuring that our children have an understanding of important issues such as consent and healthy relationships.

Like Rachael Hamilton, I hope that what has been launched today builds that foundation for change. We are already on that road, and I have no doubt that it will do so—I share Rachael Hamilton's ambitions.

However, although raising awareness and embedding understanding of gender-based violence across our schools, institutions and, indeed, wider society is undoubtedly hugely important, perhaps the bigger challenge is in delivering a societal shift whereby women no longer occupy a subordinate position to men.

Gail Ross and Liam McArthur spoke about the gendered nature of violence against women and girls and how it is borne out by the statistics that we have heard. That is why the work that Close the Gap is undertaking is so important. It will play a vital part in achieving our goal of advancing women's equality in the workplace.

Jackie Baillie said that the workplace should be a safe haven for women who are being abused. It should also be a place where they feel supported and understood. As John Finnie said, there should be a trusting relationship whereby women can get support with situations that they face.

Our Government and this Parliament have a strong track record in this area. Having a gender-balanced Cabinet, establishing the advisory council on women and girls—which I believe met this morning and was incredibly lively—and introducing legislation to lock in gains on ensuring equal representation on public boards are just a few of the important steps that we have taken.

Nevertheless, as every member who spoke in the debate recognised, there is still much to do to ensure that women are properly represented in our political and public institutions as well as more widely in senior and decision-making positions. Of course, we know that we are not there yet in terms of equal representation. The imperative to get the private sector to adopt the accreditation was passionately articulated by Gillian Martin, but we have work to do here, too. Just over 36 per cent of members of the Scottish Parliament and 32 per cent of MPs at Westminster are women. At the current pace of change, it will take another 25 years for women to make up 50 per cent of local government. We have work to do.

The fact that we still have a gender pay gap is also unacceptable, as is the fact that women continue to be underrepresented in boardrooms and senior management roles and are concentrated in low-paid and undervalued positions, as many members said.

Annie Wells made clear links with the economic impact of equal pay, which she was absolutely right to do, and Gillian Martin told us how inappropriate comments and the loss of

opportunity have a huge impact on women's ability to advance in the workplace. That lack of representation is precisely why women are often disproportionately affected by benefit cuts. They unjustly bear the brunt of austerity and can become cemented in a lifetime of low earnings and underutilised qualifications. If someone is in an abusive relationship, that is another way in which they are cemented into it. If women are not in the room when such policy is being made, we get further entrenched inequality. Gail Ross reminded us that women are twice as likely to be dependent on social security, so there is a piece of work to do there.

That economic inequality serves to reinforce gender inequality across society, because a lack of financial independence can often limit women's freedom and restrict their life choices. That is why I—and, I believe, many in this place—support changes to the universal credit system to enable split payments to households so that women who are in domestic abuse or coercive controlling situations can maintain financial independence.

It is important to stress that the wider impact of violence can be felt across our society. Violence against women costs the economy an estimated £40 billion each year, so it makes good business sense for employers to realise the part that they have to play not only in designing policies that help to overcome the barriers that women face at work but through their key role in supporting women who experience gender-based violence in the workplace or in their own homes.

The use of workplace resources to continue abuse, to continue stalking and to create an atmosphere of fear, which Rona Mackay and Bill Kidd discussed, is an area in which employers can take clear action and make progress immediately. That is why we are proud to support Close the Gap's pioneering equally safe at work accreditation programme, which we believe has the potential to create a real step change for women who work in local government. Ruth Boyle and Kelsey Smith are in the public gallery, and, when I met them today, they were full of enthusiasm and looking forward to rolling out their work after the pilot concludes.

The local authorities that are taking part in the pilot have the opportunity to lead the way in tackling gender inequality across local government by instituting appropriate measures to support and ensure the safety of employees who are experiencing gender-based violence, as well as by creating genuinely inclusive work cultures that play a crucial role in preventing such violence. Councillor Mary Donnelly from South Lanarkshire Council, who has dedicated her life to women's equality, told me that she and her cross-party team of councillors are keen to do the work. I

therefore take this opportunity to wish Close the Gap every success as it takes the project into its next phase, and I look forward to watching the pilot develop over the coming months.

Bill Kidd said that there is a moral imperative for employers to tackle the issue, and he is absolutely right. Achieving gender equality and ending violence against women and girls once and for all are shared responsibilities for all of us. I hope that we can continue to work together to build on the success that we have already enjoyed and create a Scotland where everyone feels equally safe.

Meeting closed at 17:56.

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