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AITHISG OIFIGEIL

Meeting of the Parliament (Hybrid)

Tuesday 16 March 2021

Session 5



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Tuesday 16 March 2021

CONTENTS

	Col.
TIME FOR REFLECTION	1
POINT OF ORDER	3
BUSINESS MOTION	4
<i>Motion moved—[Graeme Dey]—and agreed to.</i>	
TOPICAL QUESTION TIME	5
Violence Against Women	5
Curriculum for Excellence (Organisation for Economic Co-operation and Development Review)	9
COVID-19	13
<i>Statement—[First Minister].</i>	
The First Minister (Nicola Sturgeon)	13
GLOBAL CAPITAL INVESTMENT PLAN	38
<i>Statement—[Ivan McKee].</i>	
The Minister for Trade, Innovation and Public Finance (Ivan McKee)	38
BUSINESS MOTION	50
<i>Motion moved—[Graeme Dey]—and agreed to.</i>	
UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD (INCORPORATION) (SCOTLAND) BILL: STAGE 3	51
UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD (INCORPORATION) (SCOTLAND) BILL	98
<i>Motion moved—[Maree Todd].</i>	
The Minister for Children and Young People (Maree Todd)	98
Alexander Stewart (Mid Scotland and Fife) (Con)	100
Mary Fee (West Scotland) (Lab)	102
Patrick Harvie (Glasgow) (Green)	104
Alex Cole-Hamilton (Edinburgh Western) (LD)	106
Ruth Maguire (Cunninghame South) (SNP)	108
Joe FitzPatrick (Dundee City West) (SNP)	109
Gillian Martin (Aberdeenshire East) (SNP)	110
Mary Fee	112
Jamie Greene (West Scotland) (Con)	114
The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney)	116
MOTION WITHOUT NOTICE	121
<i>Motion moved—[Patrick Harvie]—and agreed to.</i>	
DECISION TIME	122
PEOPLE WITH LEARNING DISABILITIES (SUPPORT DURING PANDEMIC)	125
<i>Motion debated—[Jackie Baillie].</i>	
Jackie Baillie (Dumbarton) (Lab)	125
Joan McAlpine (South Scotland) (SNP)	128
Jeremy Balfour (Lothian) (Con)	130
Maurice Corry (West Scotland) (Con)	131
Shona Robison (Dundee City East) (SNP)	132
The Minister for Mental Health (Clare Haughey)	134

Scottish Parliament

Tuesday 16 March 2021

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

Time for Reflection

The Presiding Officer (Ken Macintosh): Good afternoon, colleagues. We begin business today, as we do on a Tuesday, with time for reflection. Our time for reflection leader today is the Rev David T Young, who is parish minister and team leader at Helensburgh parish church.

The Rev David T Young (Parish Minister and Team Leader, Helensburgh Parish Church): Presiding Officer and members of the Scottish Parliament, good afternoon and thank you for this opportunity to address you.

In 2017, I had the privilege of participating in a pulpit exchange with a senior pastor in the Presbyterian Church (USA). For six weeks, I worked with Hickory First Presbyterian church in North Carolina. I lived in my counterpart's home, drove his car, worked from his office and preached from his pulpit. It was a daunting experience, travelling across the Atlantic to live and work among people I had never met in a place I had never visited. Then again, life begins at the end of our comfort zone.

Being from Ardrossan, I was naturally quite concerned that my accent would bamboozle them. In fact, a member of the committee that was responsible for all staffing in the large church complex prayed ahead of my first sermon that

“the congregation would understand him”.

Of course, I had to share that with the congregation. They laughed, so the prayer must have worked.

What struck me most during this cultural and professional exchange was the warmth of the welcome. Connections with people were made so easily, the hospitality was fantastic, and the affirmation that I received from everyone with whom I was fortunate to come into contact was a complete blessing.

Before returning to Scotland, I was interviewed by the local newspaper. The headline for the article stated simply “They're Like Family”, because I spoke of the warmth with which I was welcomed and the way in which people took me under their wing. I did not have to cook a meal during the entire six weeks.

We have all thought a lot about family and connections in this past year. We have had to

sacrifice birthdays and anniversaries and all the things that we perhaps took for granted before Covid took over our lives. Our connections have largely been contained in our wi-fi networks, as my remote presence in Parliament today demonstrates. At the same time, we have made new connections with neighbours and folks in our communities whom we would otherwise simply have waved at as we jumped into our cars and headed to work.

As we cautiously look to brighter days when we can again be with all our loved ones, my hope and my prayer is that Parliament remembers the lesson that this period has taught or reminded us—that above all else, relationships matter, affirmation matters and connections matter.

Every blessing to you all, and thanks again.

The Presiding Officer: Thank you very much.

Point of Order

14:04

Bill Bowman (North East Scotland) (Con): On a point of order, Presiding Officer. I raise a point of order concerning my vote on the Hate Crime and Public Order (Scotland) Bill last Thursday. I intended to vote no but voted yes in error. I would be grateful for that to be recorded in the *Official Report*.

The Presiding Officer (Ken Macintosh): You are not the first and you will not be the last. Thank you for making that point of order, Mr Bowman.

Business Motion

14:04

The Presiding Officer (Ken Macintosh): The next item of business is consideration of business motion S5M-24388, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out changes to this week's business.

Motion moved,

That the Parliament agrees to the following revisions to the programme of business on—

(a) Tuesday 16 March 2021—

delete

6.00 pm Decision Time

and insert

8.00 pm Decision Time

(b) Wednesday 17 March 2021—

after

followed by Stage 3 Proceedings: Domestic Abuse (Protection) (Scotland) Bill

insert

followed by Scottish Land Commissioners (Reappointment)

delete

6.20 pm Decision Time

and insert

6.30 pm Decision Time

(c) Thursday 18 March 2021—

after

followed by Standards, Procedures and Public Appointments Committee Debate: Changes to the Financial Scrutiny Provisions

insert

followed by Standards, Procedures and Public Appointments Committee Debate: Code of Conduct - Register of Interests - Gifts Threshold—[*Graeme Dey*]

Motion agreed to.

Topical Question Time

14:05

Violence Against Women

1. Neil Bibby (West Scotland) (Lab): To ask the Scottish Government how it and Police Scotland are ensuring that women are protected from harassment and violence. (S5T-02718)

The Cabinet Secretary for Justice (Humza Yousaf): I am sure that the member will agree that recent events have shone a spotlight on the issue and the scale of the abuse, violence and harassment that women and girls face every day in our society. I know that my thoughts, the Government's thoughts and the thoughts of everyone in the chamber continue to be with the family of Sarah Everard.

I take this opportunity to make clear our Government position that any form of violence against women and girls is simply unacceptable. We are investing significant levels of funding in front-line support services to ensure that women and children can safely access the support that they need.

Police Scotland continues to prioritise cases of domestic abuse and harassment, and we are working closely with all our justice partners to ensure that perpetrators receive a robust response and are held to account for their actions. I will meet the chief constable later this week, and will raise the matter with him directly.

We have recently established the independent misogyny and criminal justice in Scotland working group to look at misogyny in Scotland, which is led by Baroness Helena Kennedy QC and will report within 12 months. It will consider how best we might tackle misogynistic behaviour, including street harassment, across our society. It is making excellent progress, with its first evidence session taking place on Friday.

The Cabinet Secretary for Social Security and Older People has extended an offer to meet the organisers of the reclaim these streets vigil in Edinburgh to discuss these hugely important matters.

Neil Bibby: The tragic events of last week—the disappearance and death of Sarah Everard—and the outpouring of women's stories about harassment have been a reminder of men's violence against women and of the fear that women too often face when they are going about their daily lives.

That is an issue not just in London or elsewhere in the United Kingdom, but right here in Scotland. Statistics that have been published today show

that although 89 per cent of men report feeling safe while walking alone in their local areas after dark, for women, the figure is only 65 per cent, which is a decrease from the figure from before the pandemic. I am sure that the cabinet secretary would agree that that is unacceptable and that we need to act now.

What has the Government done to improve the safety of women on Scotland's streets, and what further prevention work will it do now to tackle the serious issue of men's violence towards women, ahead of publication of the report by the working group on misogyny and harassment?

Humza Yousaf: I agree with the substantial point that Neil Bibby makes. He referenced the Scottish crime and justice survey, which suggests that the majority of women feel safe in their communities, but he is absolutely right that there is a disparity between the number of men who feel safe and the number of women who feel safe, and that cannot be right.

We will continue to fund important organisations including Engender and Zero Tolerance where we can, and we will support organisations such as White Ribbon Scotland that challenge men to stand up against male violence towards women.

Ultimately, we have to listen to women; I mentioned that the Cabinet Secretary for Social Security and Older People is meeting the organisers of the reclaim these streets vigil.

Where we can, we will also take action that is necessary through legislation to protect women. As Neil Bibby is aware, tomorrow the Parliament will debate at stage 3 the Domestic Abuse (Protection) (Scotland) Bill, which will allow police and courts to issue a suspected perpetrator of domestic abuse with a protection notice or order. That will mean that the victim of domestic abuse—of course, in 80 per cent of cases, the victim is a woman—will not have to flee their home for their own safety.

Where we can take legislative action ahead of the misogyny and criminal justice in Scotland working group reporting, we will take it. Where we can work with third sector partners, we will do that, and where the Opposition and others want to work on a cross-party basis, the Government will absolutely make itself available to be part of that solution.

Neil Bibby: We will certainly work with the Government on a cross-party basis to tackle the issue.

We have all been horrified by the story of Sarah Everard, who lost her life due to men's violence simply by walking home. However, even at home, women are not safe from violent men. We know that victims of violence are too often forced into

economic hardship and forced to upend their lives in order to flee from violence, whereas their abusers too rarely face retribution for their actions.

Domestic abuse is the fourth most common reason that is given for a homelessness application in Scotland. As the cabinet secretary said, tomorrow we will vote on the Domestic Abuse (Protection) (Scotland) Bill. Will the Government support Rhoda Grant's amendments, which seek to ensure that no victim loses their right to a home from a social landlord following their experience of abuse? What has the Government done to explore how those rights could be extended to the private rented sector?

Humza Yousaf: The Government intends to support a number of Rhoda Grant's amendments in tomorrow's debate. There might be one or two that we think would have unintended adverse consequences, which we can debate tomorrow, but the Government will certainly be looking to support a number of Rhoda Grant's amendments.

I am pleased to say that, when it comes to domestic abuse, the Parliament has often managed to reach not just consensus but unanimity in our desire to tackle that particularly pernicious crime. As I have said, I will continue to work with members across the political spectrum to see what we can do to ensure that not just our streets and our communities but our homes, which Neil Bibby mentioned, are safe for women. That process must start with listening to the quite frankly horrendous testimonies that we have heard from women about how they feel unsafe in our communities. I pledge to work closely with any member who wishes to stamp out male violence against women.

The Presiding Officer (Ken Macintosh): Three members wish to ask supplementary questions. If questions and answers are concise, we will get through all of them.

Shona Robison (Dundee City East) (SNP): The horrific murder of Sarah Everard has been strongly felt by many. My thoughts, too, are with her family and friends. Many women, including me, have reflected on not feeling safe on the streets and holding our keys in our hand. We should not have to feel like that.

Does the cabinet secretary think that, in addition to the work of the newly formed misogyny working group, we need to consider urgently what further action needs to be taken to ensure women's safety? Surely that must include working with boys at an early age to change the attitudes of the next generation.

Humza Yousaf: I could not agree more with Shona Robison, who has often raised those issues in the chamber. We are pleased to work with projects such as the #EmilyTest project, which is

led by the inspirational Fiona Drouet. That project seeks to work with young men and boys in order to deal with issues of toxic masculinity.

As Shona Robison said, we have to address those issues. I am pleased to have seen a project by Rape Crisis Scotland that goes into high schools and talks to young people, but predominantly aims its education—on issues including consent—at young boys.

I could not agree more with the general point that Shona Robison has made. We do not have to wait for the working group in order to get on with taking action. There will be an example of that tomorrow, when the Parliament will, I hope, pass the Domestic Abuse (Protection) (Scotland) Bill. Equally, where we can work with other organisations, including third sector partners, to work with young men and young boys in society, the Government will absolutely support that.

Liam McArthur (Orkney Islands) (LD): I declare an interest as an ambassador for White Ribbon Scotland Orkney.

Like many people over lockdown, I have found a daily walk to be not a luxury but a need. I take that walk for granted, and I can do it safely day or night. With the news of Sarah Everard's murder and the discussions that have followed, it is horrifically clear that too many women do not enjoy the same privilege. The stories of street harassment have been harrowing. That is not acceptable, and women should have the right to feel safe.

The Scottish Liberal Democrats believe that a commission should be established to build on the work of Baroness Helena Kennedy's group, to make recommendations and to pave the way for the changes that need to be made. Does that idea command the support of the cabinet secretary?

Humza Yousaf: I would certainly be willing to explore that idea with an open mind. I heard Liberal Democrat Caron Lindsay on this morning's "Good Morning Scotland". I have often found her to be a very considerate and thoughtful individual, and certainly the idea of a commission that has been presented by Liam McArthur is something that I would be happy to explore.

In some respects, of course, we have to accept that, although legislation can play its part, it is not the only answer. We have heard from Shona Robison and others today that education is clearly a part of what is needed. A commission might help to bring all the strands of work together. I will certainly engage with Liam McArthur and anybody else directly on any proposals that they have to tackle the scourge of men's violence against women.

Annie Wells (Glasgow) (Con): I also send my condolences to the friends and family of Sarah Everard.

The latest figures from the Crown Office highlight how prevalent domestic abuse still is within our society, with the number of domestic abuse charges in 2019-20 at a four-year high. However, any domestic abuser who is convicted and sent to prison for less than four years will automatically be let out half way through their sentence. That soft-touch approach to justice does not protect victims. Will the SNP and the cabinet secretary commit to ending automatic early release for perpetrators of domestic abuse as well as for other criminals who enjoy that luxury?

Humza Yousaf: It is a shame that Annie Wells has chosen to politicise the issue in such a way. We ended automatic early release for long-term prisoners, which was introduced by her party.

The issues around tackling domestic abuse will be most effectively debated tomorrow, when Parliament has the opportunity to unite and, I hope, transcend the politics and pass the Domestic Abuse (Protection) (Scotland) Bill, which will allow Police Scotland and our courts to impose domestic abuse protection notices and orders so that, for the first time, a suspected perpetrator of domestic abuse can be removed from their home and the victim of that domestic abuse can remain with their family in the family home and not end up having to flee the family home or become homeless.

If Annie Wells would like to be part of the coalition that will give that additional protection to victims of domestic abuse, who are predominantly women, I would very much welcome that. If the Tories have any other ideas that we can take forward to protect victims of domestic abuse then, of course, I will listen to them.

However, trying to frame the debate as being about soft justice versus hard justice is, I am afraid, not doing the issue any justice whatsoever. We will follow the data and evidence, and we will continue to take a smart justice approach.

Curriculum for Excellence (Organisation for Economic Co-operation and Development Review)

2. Beatrice Wishart (Shetland Islands) (LD): To ask the Scottish Government whether its discussions have concluded with the Organisation for Economic Co-operation and Development regarding publication timetables relating to its review of curriculum for excellence. (S5T-02717)

The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney): My officials have written formally to the OECD, highlighting the motion agreed by

Parliament on 17 February, which called for the immediate publication of its draft report, asking the OECD to confirm whether that would be possible and to clarify its position on the matter. In responding, the OECD has made its position very clear. It will not publish its draft report, nor will it allow the Scottish Government to do so. The correspondence has been published on the Scottish Government website.

We now need to let the OECD focus on finalising its findings and the drafting process. I look forward to the publication of the final report in June and to its helping to inform a dispassionate discussion on the future of Scottish education.

Beatrice Wishart: I thank the cabinet secretary for that answer, but the problem is that he has got himself into a bit of a bind here. It is 322 days since the Scottish Liberal Democrats called for the public to hear from the OECD before the election. At the Education and Skills Committee in September, I specifically asked whether the cabinet secretary would contact the OECD to request an interim report. He replied:

"I will be happy to discuss that with it."—[*Official Report, Education and Skills Committee, 16 September 2020; c 32.*]

Our consequent freedom of information request has shown that ministers did precisely nothing. It took a defeat of the Government in Parliament to coax the cabinet secretary into giving anyone anything before the election.

The public is being asked to judge the SNP on its record on education, but the cabinet secretary has orchestrated this obstruction through his agreements and inaction. Why did the cabinet secretary not contact the OECD in September, when he said that he would?

John Swinney: The OECD review was commissioned as a Government response to the decisions taken by the Education and Skills Committee and in Parliament. The proposals were put forward and the remit was agreed, but, since then, we have had the impact of Covid, which has disrupted the ability of the OECD to engage with schools because of the period of disruption going back to last March.

I explained to Parliament, in response to a Government-inspired question, the timetable that would be followed by the OECD, which was agreed to enable it to follow the proper process that it is taking forward. We have asked that respected international organisation to undertake that exercise, and we should leave it to do exactly that. I have made every endeavour to secure early publication in so far as that is possible, but the OECD has indicated that it is not possible.

Beatrice Wishart: The Government could have asked for a change and for something before the

election, just as it asked the OECD to extend its work to cover exams. The Government is the client. However, timings are not my only concern. The Scottish practitioners forum is “shaping and developing” that report, which sounds sensible until we learn that Education Scotland and the Scottish Qualifications Authority are on that practitioners forum. They are under the microscope, so what are they doing on a group that is shaping and developing the report?

John Swinney: The points that Beatrice Wishart glides past in her question are the fact that we have, on two occasions, asked the OECD to extend the scope of the work that it is undertaking—it started off as an examination of the senior phase, it was extended to the broad general education and it has also extended into assessment, so it is no particular surprise that the timescale has extended—and the fact that we have also had the disruption of Covid.

The Scottish practitioners forum draws together a number of practising members of the education system in Scotland. It is led by Tony McDade, executive director of education resources at South Lanarkshire Council, and it involves classroom teachers, headteachers, heads of service from local authorities, a college principal, Professor Mark Priestley—who undertook what I would describe as the pretty challenging review of the SQA in the light of the exam issues last year—and, of course, Education Scotland and the SQA. That is to make sure that the OECD is able to speak to the range of different participants in the delivery of Scottish education. The OECD asked us to put together a practitioners forum that it could engage with in discussion and debate, and it has to be representative of the whole education system in Scotland.

The Presiding Officer: If they are quick, I will allow supplementary questions from Jamie Greene and Ross Greer.

Jamie Greene (West Scotland) (Con): On 17 February, the Deputy First Minister told the chamber that he

“will share draft findings from that work in March, with a final report to be published in June”.—[*Official Report*, 17 February 2021; c 29.]

Given that he is now saying that the OECD will not let him share those findings, I ask whether the OECD has changed its mind, whether the Deputy First Minister has changed his mind or whether the Parliament misunderstood his promise to the chamber.

John Swinney: I have placed a document in the Scottish Parliament information centre, which enables members of Parliament to access that material. That is precisely what I have done. The OECD has indicated—I have published the

correspondence—that that must be treated as a confidential document. I am trying my level best to meet the terms of the Parliament’s requests along with the strictures that apply to me in a contract that we have agreed with the OECD. The Parliament asking a Government minister to breach a contract is not a particularly good look.

Ross Greer (West Scotland) (Green): While we wait for the OECD’s report, a report by the Social Market Foundation was published today that covers much the same ground. It suggested that Scotland should move away from the single high-stakes end-of-term exam model and towards a continuous assessment approach. Without wishing to pre-empt the OECD’s report, does the education secretary acknowledge that the time for change in Scotland’s exam system has now come?

The Presiding Officer: That was a slightly broader question, but you may answer briefly, Mr Swinney.

John Swinney: It may be broader, Presiding Officer, but it is absolutely relevant. There was commentary just yesterday morning in broadcast media from the commission on school reform, which has taken a slightly different point of view to Mr Greer’s.

Nevertheless, the point that Mr Greer puts to Parliament must be openly debated and discussed. We must have an assessment system that reflects our curriculum and that commands confidence in the country. There are perfectly legitimate arguments for a continuous assessment model or an end-of-session examination model—or for a mixture of both, which essentially describes some of the arrangements that we have now. The issue that Mr Greer raises is entirely legitimate for us to focus on, and there is plenty of evidence to enable us to have that discussion.

The Presiding Officer: I call Clare Adamson.

We might have lost Clare Adamson, by the look of things—I am afraid that we have. That concludes topical questions.

Covid-19

The Presiding Officer (Ken Macintosh): The next item of business is a statement by Nicola Sturgeon on Covid-19. The First Minister will take questions at the end of her statement, and I encourage members who wish to ask a question to press their buttons now.

14:25

The First Minister (Nicola Sturgeon): My statement will set out our next steps out of lockdown and back towards a way of life that is much closer to normality. I intend to set out in some detail how, and in what order, we hope to ease restrictions between now and the middle of May. I will also set out, albeit in more general terms, our expectations beyond that. I must stress, of course, because it is simply an inescapable fact, that being able to deliver on the plans that I outline today is dependent on continued progress in suppressing the virus and rolling out vaccines. However, I hope that this statement will provide welcome reassurance that brighter days are ahead of us.

Before turning to the detail, I will provide some context on the state of the epidemic. I will start with a summary of today's figures. There were 597 positive cases reported yesterday, which is 3.8 per cent of all tests carried out. That takes the total number of cases to 210,605. There are 440 people currently in hospital, which is seven fewer than yesterday, and 42 people are in intensive care, which is two more than yesterday.

I regret to report that, in the past 24 hours, a further seven deaths have been registered. The total number of deaths under that measurement is now 7,517. Once again, I send my deepest condolences to all those who have lost a loved one. One week today, when we mark the first anniversary of lockdown, the whole nation will be invited to share in a minute's silence, as we reflect on those we have lost and on the painful sacrifices that have been made by so many over the past year.

We are currently recording an average of 570 new Covid cases each day in Scotland. Two points about that are important to make. The first is positive: case numbers have fallen sharply since the early part of this year, as a result of the tough restrictions that we are all living under. In January, we were recording more than 1,000 cases a day on average. Just three weeks ago, the average number of new cases each day was 815. We have seen a significant reduction since then, which indicates the progress that has been made in suppressing the virus.

The second point is slightly less positive. The 570 cases per day on average over the past week is up slightly from an average of 490 the week before. That is not a massive increase, but it is clearly not the direction of travel that we want to see, so we will be monitoring it carefully and taking it as a reminder that we have no room for complacency. Care and caution in the face of the virus continue to be essential.

What is unambiguously positive so far is the progress of the vaccination programme. We have now vaccinated virtually all over-65-year-olds; 59 per cent of 60 to 64-year-olds; 41 per cent of 55 to 59-year-olds; and 34 per cent of 50 to 54-year-olds. In total, as of 8.30 this morning, 1,943,507 people in Scotland had received their first dose of the vaccine. That is already more than 40 per cent of the adult population, and it is an increase of 34,516 since yesterday. We expect around 400,000 vaccinations to be administered this week, and we hope that that level can be maintained through April—subject, as always, to vaccine supplies.

It is not just the scale of the vaccination programme that is positive; what we are learning about its impact is also hugely encouraging. We can already see that it is having a significant impact on the number of deaths. According to National Records of Scotland, the number of Covid deaths has more than halved in the past two weeks. There are now positive indications from research, including a study last week by Public Health Scotland indicating that the vaccines reduce transmission of the virus. That is significant.

That now provides us with greater confidence than we could have had previously about the impact of the vaccine on suppression of the virus. That, in turn, gives us more confidence about mapping a path out of lockdown, with a firmer indicative timeline for lifting restrictions.

We have, of course, announced and implemented some significant changes already. Last week, the restrictions on outdoor gatherings and activities were eased slightly. As of yesterday, all primary-aged children are back in school full time, and the phased return of secondary schools is also under way. After the Easter break, which, for some, will be on 12 April, we hope that all children will be back in school full time.

Obviously, we will continue to monitor the impact of the changes. However, I am now able to set out some further changes that we hope to be able to make in early April. I can confirm, first, that we expect to lift the current "Stay at home" rule on 2 April. Initially—we hope that this will be for no more than three weeks—"Stay at home" will be replaced by guidance to stay local: in other words, for people not to travel outside their own local

authority area unless for an essential purpose. People will continue to be able to meet up outdoors, including in private gardens, in groups of no more than four from two households.

Our other changes in early April will take effect from Monday 5 April. On that day, we expect contact sports for 12 to 17-year-olds to resume. We also expect that, from 5 April, more students, particularly those in further education, will be allowed to return to on-campus learning. Colleges will prioritise those students whose return is essential, including those who are most at risk of not completing their courses. That includes those who are taking qualifications in construction, engineering, hairdressing, beauty and related courses.

We also expect to begin the phased reopening of non-essential retail on 5 April. Click-and-collect retail services will be permitted to reopen from that date, along with homeware stores and car showrooms and forecourts. Garden centres will also be able to reopen on 5 April, which I know is important as we head towards the summer. Last but, for some of us, definitely not least, we expect hairdresser and barber salons to reopen for appointments on 5 April, too.

Those changes will, I hope, make a real difference to people in a number of different ways. Given the state of the virus and the extent of vaccination, what I have just set out is the maximum that we consider possible to do safely at that stage. However, during April, we expect our vaccination programme to reach an important milestone. By the middle of April, supplies permitting—that is still a necessary caveat—we will have offered first doses of the vaccine to all nine priority groups identified by the Joint Committee on Vaccination and Immunisation. Those nine groups include everyone over the age of 50, all adults with particular underlying health conditions and all unpaid carers. Crucially, those groups account for a significant majority of the country's adult population. Even more crucially, they cover groups of the population that, between them, account for approximately 99 per cent of all Covid-related deaths.

Reaching that milestone—while taking account of the fact that it takes a couple of weeks for protection from the vaccine to kick in—will give us confidence to ease restrictions much more significantly from 26 April. On that date, we expect all parts of Scotland that are currently at level 4 to move down to a modified level 3. The island communities that are currently at level 3 will have the option to move to level 2 at that stage. However, given what I am about to set out on travel restrictions, we intend to discuss that with those communities over the next couple of weeks.

Let me turn first to the position on travel. We expect that, from 26 April, restrictions on journeys in mainland Scotland will be lifted entirely. However, if restrictions on socialising and hospitality are relaxed more quickly and significantly on the islands, there might be a need to retain some restrictions on travel to and from the mainland to protect island communities from the importation of new cases. However, rather than impose that decision now on our island communities, we intend to discuss it directly with them to determine what arrangements they consider will work best for their circumstances.

We hope that restrictions on journeys between Scotland and other parts of the United Kingdom and the wider common travel area can also be lifted, if not on 26 April, then as soon as possible thereafter. However, we need to keep that under review, as part of our efforts to reduce the risk of new cases being imported into Scotland, and we will update the position during April.

Reducing the risk of importing new cases and new variants is also directly relevant to the issue of international travel. We intend to discuss with the aviation sector later this week how and when non-essential travel to some international destinations might be possible again. Like the UK Government, we are certain that that will not be achievable before 17 May, and our view is that it might well not be possible for a further period after that, given the circumstances and situation with the virus in many other parts of Europe and the world. Even when overseas travel resumes, it is likely that a requirement for pre-departure and post-arrival testing will remain in place for some time, but we will keep that issue under close review.

I now turn to the other changes that we hope to make from 26 April. On that date, we expect all remaining retail premises to reopen. All tourist accommodation will be able to reopen from that date too, subject to any wider restrictions that remain in place, for example on hospitality. We expect that libraries, museums and galleries will also reopen from 26 April. Our expectation is that, on that date, indoor gyms will reopen for individual exercise and work in people's homes will resume, as will driving lessons. We expect that the limit on attendance at weddings, funerals and associated receptions will be raised to 50 people from 26 April.

From that date, the restrictions on outdoor socialising will be eased further too, with six people from up to three households able to meet outdoors, with no mainland travel restrictions in place, as I said earlier. Twelve to 17-year-olds will be able to meet outdoors with up to six people from six households. Unfortunately, given that, as we know, the risk of transmission is greatest inside

our own homes, where it is more difficult to comply with mitigations such as physical distancing, we cannot yet say whether it will be possible to have people from other households visit us indoors from that date. However, given how important that point is to all of us, we intend to keep the situation under on-going review.

The hospitality sector will also begin to reopen from 26 April. From that date, cafes, restaurants and bars will be able to serve people outdoors in groups of up to six people from three households until 10 pm. Alcohol will be permitted, and there will be no requirement for food to be served. We also hope, although this in particular depends on continued suppression of the virus, that there will be limited indoor opening of hospitality from 26 April too, which will be limited initially to the service of food and non-alcoholic drinks until 8 pm, for groups of up to four people from no more than two households. As was the case this past year, venues will need to retain customers' contact details for three weeks after their visit.

Finally, we advise that, from 26 April, people on the shielding list can return to work; children and young people on the shielding list can return to school or nursery; and students on the shielding list can return to college or university. The chief medical officer will write this week to everyone on the shielding list to provide more detailed advice.

As is obvious, the changes that we hope to make on 26 April are significant and we will therefore need to monitor them carefully. For that reason, we do not expect to make any further changes before 17 May, three weeks later. However, from that date, we hope that all level 3 areas, or as many as possible, will move to level 2, and that indoor hospitality can return to greater normality, with alcohol able to be served indoors and within more normal opening hours, although possibly with some continued restrictions, such as a requirement for people to book in two-hour slots. The precise detail of any continued restrictions will depend on an assessment of the situation closer to the time, but we will aim for us as much normality as possible.

We hope that adult outdoor contact sports and indoor group exercise can resume on 17 May and that cinemas, amusement arcades and bingo halls will reopen from that date. Outdoor and indoor events will also restart, albeit on a small scale to begin with, and we will confirm capacity limits with the events sector in the next few weeks.

We hope that colleges and universities will return to a more blended model of learning from mid-May, which will mean that more students can be on campus. Further face-to-face support services will also resume then, as will non-professional performance arts.

Finally on 17 May, we expect restrictions on outdoor social gatherings to ease further. If it has not proved possible before that date, we also expect that people will be able to meet up inside each other's homes again, initially probably in groups of up to four people from no more than two households. I know that the restriction on indoor meetings has been one of the hardest parts of lockdown for most of us to bear. Unfortunately, it is necessary, and I note that the easing of that restriction is not expected before mid-May in England either. However, we all yearn to meet with friends and loved ones indoors again, and I know that that is especially important for those who live alone, so we will keep that under review and seek to restore as much normality as possible as soon as it is safe to do so.

I now want to give an update on business support. In the past year, we have provided more than £3 billion of direct support to businesses in Scotland. For the entirety of the next financial year, we will provide 100 per cent rates relief for retail, hospitality, leisure and aviation businesses. When I spoke in advance of the UK budget, I said that the strategic business framework, which supports closed businesses, would continue until June, even if some businesses were able to open before then. However, a number of businesses asked us to instead adopt a model of restart grants as we emerge from lockdown, and we have decided to follow that advice. Therefore, I can confirm that, on 22 March, recipients of support under the strategic framework business fund will receive a final four-week payment. No new claims will be allowed after that date. On 19 April, recipients will receive a combined final payment comprising a further two weeks' closure support and a one-off restart grant. For eligible retail businesses, that will mean a payment on 19 April of up to £7,500 and, for eligible hospitality and leisure businesses, a payment of up to £19,500. That will provide support that is more generous and more flexible than previously envisaged.

The steps that I have outlined today give a significant degree of clarity for the period between now and mid-May. As I hope that people can understand, the unpredictable nature of the virus means that it is difficult to give that much clarity beyond that time. However, our hope and ambition is that, from early June, all of Scotland will move to level 1, which will allow for further easing of restrictions, and that, by the end of June, all of Scotland will move to at least level 0.

Level 1 and, even more so, level 0 will be a massive improvement on where we are now. However, those levels still involve some restrictions, so we hope that we will be able to get beyond even that. As people would expect, we will continue to assess the situation, with a view to restoring as much normality as possible. It is our

fervent hope—and our tentative but increasing expectation—that vaccination, continued and effective use of the test and protect system, and, probably, continued compliance with precautions, such as good hand hygiene, will allow us to keep Covid under much greater control. That will allow us to enjoy many of the things that we took for granted before the pandemic, such as normal family gatherings where we can hug our loved ones, sporting events, gigs and nightclubs.

Setting a precise date for all that now would involve plucking a date out of thin air, and I would probably be doing it to make my life easier, not yours. Therefore, I am not going to do that. However, over the coming weeks, as more and more adults are vaccinated, it will be possible to set a firmer date by which many of these normal things will be possible, and I am optimistic that that date will be during the summer. I know that I will not be the only one who is now looking forward, with a real sense of hope, to hugging my family this summer.

Three months ago—when we had to reimpose lockdown in the depths of December—was a dark moment in an unbelievably tough year. I know how difficult the past few months have been, and I will never underestimate, or stop being grateful for, the hard and painful sacrifices that everyone has made.

However, now, thanks to those sacrifices and the success of the vaccination programme, we are in a much brighter position. As we move further into spring, children and young people will be back in school full time, we hope that shops and services will reopen, we will be able to travel more widely, we will see more of our friends and loved ones, and we will start to meet again in bars, cafes and restaurants. As we move into the summer, an even greater degree of normality—I hope that it will be something much closer to actual normality, with the ability to hug those whom we love—will become possible. All that should fill us with optimism. This is certainly the most hopeful that I have felt about the situation for a long time.

However, as people would expect, I need to add a note of caution. I know that this is the bit that none of us wants to hear, but the route back to normality depends on continued suppression. Right now, things are much better, but hundreds of us are still getting the virus every day. Last week alone, more than 200 people were admitted to hospital with the virus. We are getting the virus under control, but it is still dangerous and is now even more infectious, so we must continue to suppress it to the lowest level possible as we try to get our lives back to normal.

For now, please continue to stay within the rules. Until 2 April, please stay at home, except for specific purposes. Please do not meet people from

other households indoors, and please follow the FACTS advice when you are out and about. By doing all that over the past long and difficult months, we have protected one another and saved lives. By doing it in the few weeks ahead, we can make steady and sure progress back to normality, and we will continue to protect one another as we journey towards those brighter days that I firmly believe are now in sight.

The Presiding Officer: Thank you, First Minister. We turn to questions.

Ruth Davidson (Edinburgh Central) (Con): Today's update, as briefed, has started to give some clarity on when various sectors can reopen. Frankly, they were calling for and expecting that clarity three weeks ago, when the First Minister said that she would reveal her road map out of the restrictions. Notwithstanding that, her statement will give much encouragement to those who are desperate to get back to work, to shops that want to welcome customers and to hairdressers who want to welcome clients.

However, a statement can be as instructive by what is not mentioned as it can be by the information that is mentioned. We know that there is a huge job to get public services that have been affected by Covid back online, whether that is national health service testing and treatment, the backlog of court cases or support services for those with special needs.

For a week that began with international women's day and ended on mothering Sunday, last week was a particularly tough week for women. The disappearance of Sarah Everard and the discovery of her body shocked us all. It led to an outpouring of stories from women across the country of times when they had been attacked, intimidated, catcalled, flashed at, followed, stalked, abused or threatened. The First Minister recognised that and used her social media channels to offer support. Of course, she cannot solve all those problems, but she could offer specific action in specific areas to make things just a little better.

This week, the First Minister will have been as struck as I was by the number of women explaining how their horizons have narrowed during Covid and that basic pursuits that most men do not think twice about—such as going for a walk or a run, or taking other outdoor exercise, in the evening or after dark—are simply not an option for them if they want to feel safe and stay safe. I ask the First Minister to look again at moving up the reopening date for well-lit and well-supervised safe exercise spaces, such as gyms, so that people across Scotland—but especially women—can get out of the house and do basic exercise without fear.

Another improvement would be to reopen all scans and stages of pregnancy treatment to partners, so that women do not have to go through so much of the patient pathway alone.

In addition, the First Minister has previously talked about restarting diagnostic testing, but we know from recent data that the number of urgent referrals for treatment of possible cervical cancer has halved compared with the number for 2019. London is trialling at-home smear tests, so will the First Minister commit to looking at a similar catch-up scheme here?

Finally, we have seen a rise in violent crime across Scotland at a time when the backlog in court cases has soared. Can we increase the number of High Court sittings and take the court on circuit, so that those waiting for justice—particularly those who have been subjected to violent or sexual crime—can get that justice earlier?

The First Minister: First, had I announced three weeks ago everything that I have announced today, I would have been doing so without the confidence I now have that we would have reached a stage of having suppressed the virus and vaccinated enough people to make it safe. What I have tried to do—some people will agree, and some will disagree—from day one of the pandemic, literally every single day, is to take balanced decisions that put the overall safety of the country first. That is what I am going to continue to do each and every day. That is more important than headline grabbing or doing things to make the lives of politicians easier, because my job is to protect, as well as I can, the safety of the population at large.

I repeat that, because of the cautious nature of the approach that we took in coming out of lockdown last year, we kept things open for longer than other parts of the UK—and, of course, we are coming out now from our second national lockdown as other parts of the UK are coming out of their third. It is important to get such decisions right.

Opening up public services that have had to be paused is a priority. It is because we give it that priority—schools being at the top of that list—that we have to be more cautious with opening some parts of our economy. We cannot do everything when headroom to suppress the virus is so limited. We have therefore unapologetically and unashamedly prioritised the return of schools.

Getting the health service back to operating normally is also a real focus. The Cabinet Secretary for Health and Sport and I had a round-table discussion just yesterday with representatives from across the health service and heard directly from them about their priorities and

needs. We have just established a new centre for sustainable development in the national health service, which is looking at innovative ways of doing things—for example, at-home smears, although I think that we have to be careful about exactly how we describe certain things. All of that is part of what we are now doing to take forward the sustainable recovery of the national health service while supporting it to treat Covid patients for as long as is necessary.

There has been significant investment in justice. Significant work with the Scottish Courts and Tribunals Service has meant that, again, creative and innovative ways were found to keep court hearings and trials going—although there has been an undeniable impact on that—and we will continue to bring those services back as safely as possible.

I hope that gyms will reopen on 26 April for individual exercise. Group exercise outdoors, so that people do not have to face exercising outdoors on their own, is particularly important for women, and particularly so in the current circumstances. We allowed that from last week, recognising its importance for people's physical and mental health.

None of that is easy. It would do nobody any favours if I rushed to do everything at once, because that would set us back. We are setting out a sustainable and steady path out of lockdown and back to normality. I believe that the vast majority of people across the country will support that.

Anas Sarwar (Glasgow) (Lab): I thank the First Minister for advance sight of her statement and I, too, pass on my condolences to all those who have lost a loved one.

Steps to reopen our society and economy are welcome, particularly as those, too, impact on health and wellbeing, and I know that they will give much-needed hope to people across Scotland. That is why we need to make sure that the current lockdown is our last.

In the past week, we have seen a rise in the number of cases, and there are local areas in which rates are much higher than average. Although we want progress, we need to make sure that infection rates do not rise with the lifting of restrictions.

To have finally reached 400,000 vaccinations a week will also be welcome. However, last week, almost 420,000 gold-standard polymerase chain reaction tests went unused. Will the First Minister commit to using those in our schools and workplaces, as restrictions ease? Effective testing and tracing are what will stop us going back into another lockdown.

We also welcome the commitment of additional funding for businesses, but the eligibility and the speed of disbursement is crucial. Does the First Minister recognise that it will take time for businesses to recover, even after the restrictions are lifted and lockdown ends, and does she agree that transitional support must be made available over the longer term, to avoid businesses having to close and people losing their jobs?

The First Minister: First, we all want this to be the last lockdown, but making that happen is not as easy as a politician simply saying that, as a soundbite. Making sure that this is the last lockdown involves taking careful, cautious and sensible decisions—and sometimes having to take unpopular decisions—in order that we can make sure that our exit from this lockdown, even if it is a bit slower than we are all desperate for it to be, is a steady one and that we go firmly in one direction and do not end up setting ourselves on a backward track. That is what I and the Government are focused on, every single day.

On testing, we are using lateral flow devices in schools and increasingly in workplaces, because they get results quicker. It is not that there is no purpose in using PCR for asymptomatic testing, but it takes longer to get the results, so we are using lateral flow testing and if those tests are positive they are then confirmed—or otherwise—by PCR testing.

The reduction in the use of PCR testing is because prevalence of the virus has fallen. PCR testing has been prioritised for people with symptoms of Covid, because that is really important. We will continue to use all our testing capacity, which is much more varied now than it has been, as effectively as possible. We are using testing in many more settings than was the case previously.

On business support, what I set out today in relation to the start-up grant is, for eligible retail businesses, equivalent to about three months of additional support, and for eligible hospitality and leisure businesses it is equivalent to about six months of support. Additional support will be provided even after businesses start to reopen; the support is more expansive than we had previously planned.

There will continue to be a need for business support in the medium term. We have always recognised that, which is why we made the commitment to 100 per cent rates relief for the worst-hit sectors, for the entirety of the next financial year. Through the various mechanisms that we have, we will continue to support businesses appropriately as they get back to trading and, we hope, making profits.

Again, that is why it is so important that we get these decisions right, so that when businesses start to reopen this time they stay open and can get back to normal, just as we all want to do.

Alison Johnstone (Lothian) (Green): The fact that we are in a position to start planning to reopen things and get our lives back will be welcomed by everyone. As always, the Scottish Greens support a cautious approach.

The First Minister flagged an increase in daily cases compared with last week, which is concerning. There have been reports of an increase in cases being linked to the unsafe gatherings of football fans in Glasgow. Does the First Minister think that those gatherings are reflected in the figures?

Although the rate of positive cases is broadly decreasing across age groups, there is a marked increase in cases in children under 14. What measures is the Scottish Government taking to address that trend?

Will the Government introduce lateral flow testing for college further education and higher education students as they begin a slow return to campus so that we avoid a surge in infections such as was caused by last year's chaotic reopening of universities?

The First Minister: There will be a gradual return of students to further and higher education and we will use lateral flow testing as appropriate and in a targeted way to support that. The increase in students on campus that I set out today for the early stage, from the early part of April, will be focused not exclusively but largely on further education, because that is where there is a greater need for students to get some face-to-face learning on campus if they are to complete their courses.

On case numbers, we have seen an increase in the past week. As the chief medical officer said yesterday, there is a small number of cases among people who gathered as part of the football incident last weekend. Given the incubation period of the virus, we might see more of that; it will not have fully worked its way through yet.

We need to be open eyed about this. After a year of the virus, I think that we have learned that any time that we open up and people start to come together, there is a greater opportunity for transmission. Schools have returned, and in that regard the worry is not as much about transmission in schools as it is about the activity that happens around the return of schools. I am probably one of the last people to be complacent about any increase in cases, but if I cast my mind back two or three weeks, I think that we worried then that the increase in cases that we would see after the beginning of the return of schools would

be bigger than it is right now. We will monitor that very carefully. The mitigations in schools are important to try to reduce transmission among the younger age groups as much as possible.

This is always going to be a balancing act. Any relaxation of restrictions is not neutral, because it increases the risk of transmission, so we have to get all the pieces as much in balance as we can. We have a significant additional piece now with vaccination, which will help to substitute for some of the lockdown restrictions. However, it remains absolutely essential that we navigate the easing of restrictions really carefully, based on all the experience that we have had over the past year.

Willie Rennie (North East Fife) (LD): I am sure that people will feel a little bit of hope today. Their sacrifices, and the brilliance of the vaccine scientists, mean that our liberty may return soon. The dark cloud hanging over people struggling with their mental health might start to clear, too, so we must have the services ready to help them.

The First Minister has been insistent that decisions on easing would be based on data not dates, yet the statement today has quite a few dates but very little data. When will we see the indicators that will allow people to understand when they will be moving from one level to the next in their area? Can the First Minister be clearer about the indicators and the data?

The First Minister: People want some clarity about the indicative timeline, which we are trying to give them. All of that is predicated, though, on the data continuing to go in the right direction. Clearly, if the data starts to go wildly in the wrong direction, all bets are off. That is why it is so important for all of us to continue to convey the message about the importance of sticking with the discipline for a little bit longer.

On the move down from level 4 for all of mainland Scotland and some parts of our island communities, we want to try to do that as one country, because that will allow us to lift travel restrictions. Even though some parts of the country are at lower levels of prevalence now, because vaccinations are not yet at a critical point it would still be very risky to lift the restrictions more quickly in those parts of the country.

When we have done that, if there are outbreaks or variable transmission across the country, we will have the option of using the levels, and we will publish shortly the latest indicators that we would intend to use. As I had to say repeatedly before, it is not an exact science. However, at the moment, for the whole country, it is about getting the virus as low as possible and keeping it there, recognising that, as I said, easing restrictions is not neutral. We need to keep in mind a

combination of all of that, as we try to navigate our way through the next few weeks.

Annabelle Ewing (Cowdenbeath) (SNP): The setting of indicative dates for the initial easing of lockdown is welcome news. However, the First Minister has struck a cautionary note. Will she clarify by what date any change in plan would be communicated, in the event that the Covid-19 data dictated a change of approach? That would be important information in allowing my Cowdenbeath constituents and people across Scotland to start to make firm plans as they seek to return a greater degree of normality to their lives.

The First Minister: We would aim, as we have generally done throughout the pandemic, to confirm, hopefully—or otherwise, if things were not going in the right direction—a week before each of those dates whether changes were going to happen. I very much hope that that will be confirmation.

The point that I have raised and that Annabelle Ewing has underlined is that, with an infectious virus, nothing is set in stone. If we take our foot off the brake too quickly and ease up too much over the next couple of weeks, and if the slight increase that we have seen in the past week accelerates, obviously we will need to reconsider. That will be true for any country. If we want to keep on this firm, steady path forward, all of us need to continue to be sensible.

One thing that should give all of us cause for concern, or at least cause us to guard against complacency, is that there are now many parts of Europe where things look as though they are going in the wrong direction again. This virus will take any opportunities. However, we are in a better position with vaccination, and that is really good. We increasingly think that vaccination will do the job that restrictions are doing. We are not there yet entirely, so we continue to need to have that balance, but, if we all keep doing the same things that we have been doing for a long time, I believe that, as we go into the summer, there is every reason to feel very optimistic about how we will be able to live our lives.

Maurice Golden (West Scotland) (Con): When will the Scottish Government publish updated guidance on restrictions that are contained in the tier system, especially the restrictions in level 0?

The First Minister: We will publish some of that later today, which will back up what I have said today. The update to the document is possibly already published. In relation to level 0, we need to have further discussion about taking account of the data closer to the point at which we might get into level 0—for example, on such things as the number of people allowed in stadiums or at events. We do not want to prejudge that too much

and set that number too low or, on the other side, raise expectations too high at the moment. We will take a bit more time to come to a final view on that, as I indicated in my statement.

The further out we are, the less possible it is to be absolutely crystal clear about things, and the more we try to be crystal clear, the more chance there is that we will end up having to change our position. We are trying to give clarity as far out as possible but be up front with people that we will need to assess things further down the line and a bit closer to the time.

Clare Adamson (Motherwell and Wishaw) (SNP): What reassurance can the First Minister give to parents, carers and staff following reports of an outbreak of coronavirus at St Ignatius primary school campus and its associated nursery in my constituency?

The First Minister: One of the difficult things with the virus on an on-going basis is that, even as we get its prevalence and incidence down—as I hope that we will—we will see outbreaks. Unfortunately, those outbreaks will sometimes affect schools and nurseries. Even if they are not in the schools or nurseries, people associated with them will be affected, and those outbreaks will need to be managed in line with all the protocols, guidance and correct mitigations. I know that that will be difficult for parents and young people, but it will continue, unfortunately, to be a feature of dealing with the virus. However, the more we suppress community transmission, the more we will reduce the possibility of outbreaks.

We have already published a suite of comprehensive guidance on mitigations to reduce risk in schools, and that is supported by regular at-home testing for pupils and all staff in secondary schools, which should further reduce the risk of outbreaks. Hopefully, as community transmission continues to fall, so, too, will the number of young people affected in school-related outbreaks.

Jackie Baillie (Dumbarton) (Lab): Age Scotland, Engender, Inclusion Scotland and around 20 other civil society organisations have written to the First Minister, welcoming her commitment to a public inquiry into Covid-19. They are asking her to work with civil society to take a human rights-based approach and consider the impact on a wide range of groups, including care home residents, front-line staff, women, people from the black and ethnic minority community and older people. Will the First Minister ensure that the remit captures all of that, and, given the length of time that public inquiries take, will she commission that inquiry now and ensure that it reports in interim phases?

The First Minister: I have already given a commitment to a human rights-based approach to

a public inquiry. I believe that we still might be the only Government in the UK that has given a clear commitment to a public inquiry, but, if I am wrong about that, I stand to be corrected. We will work with civil society as we decide the remit and take all the other decisions that have to be taken.

That decision has already been taken in principle. Given that the Parliament is about to break for an election, I think that it will be—I hope that the status of the virus will allow this—a priority for the incoming Administration to get the public inquiry properly up and running. If that incoming Administration is me and this Government, we will take that inquiry forward as quickly as possible. If it is somebody else and another Government, I hope that they will have the same commitment to doing likewise.

Stuart McMillan (Greenock and Inverclyde) (SNP): I thank the First Minister for her statement. Many businesses across Scotland will appreciate the clarity that was given on the course out of lockdown and—I hope—back to more normality as soon as that is safe. Will the First Minister provide further reassurance for businesses that have to remain closed for the time being that financial support will be made available to help them through what will be a difficult and turbulent period for many?

The First Minister: The approach to business support that I set out is intended to combine, on the one hand, on-going support for businesses that must remain closed or that still have significant restrictions on their ability to trade with, on the other hand, financial support for businesses with the costs of restarting and reopening, such as the costs of ordering stock or doing other things to get a business ready to trade again.

Businesses have asked for that combination, which provides flexible support. I hope that, by the time we get into summer, the vast majority of businesses will be operating again, but we have always recognised the need to support those who cannot operate, for whatever reason. As well as focusing on that, we are focusing on getting businesses and the economy operating as normally as possible, as quickly as possible.

Donald Cameron (Highlands and Islands) (Con): The First Minister will know that a recent report said that, during the second wave of the pandemic, more than half of severe Covid cases involved transmission in hospital and that Scots were nearly 13 times more likely to become seriously ill from Covid if they had been in an NHS Scotland facility in the fortnight before they tested positive. Will the First Minister explain what action she will take to prevent that from happening again as we remobilise the NHS?

The First Minister: There is a direct correlation between community transmission of the virus and nosocomial infection and transmission. As community transmission rates have fallen, so have infection rates in hospitals. Initially, therefore, the most important thing is to get community transmission rates down. A range of work is undertaken in hospitals—not just in relation to Covid, but generally—to reduce the risk of infection.

The University of Edinburgh study is an important paper that highlights a number of issues that the nosocomial review group has considered. It shows a strong epidemiological association between hospital exposure and severe Covid, but it does not confirm causality between the two. That does not make the information unimportant, but it is important to understand the difference.

The paper makes it clear that the reasons for the association are likely to be complex. The report does not say this—it is me saying it—but, for example, people who are in hospital are likely to have health conditions already, so, if they get Covid, they might be more vulnerable to becoming more ill with it. We will consider the paper carefully and feed any learning from it into the wider work to reduce, as far as possible, the risks of hospital-acquired infection.

John Mason (Glasgow Shettleston) (SNP): I was delighted to get the AstraZeneca vaccine on Saturday. I guess that I am slightly older than the First Minister, so I might have been vaccinated before her. Will she reassure people who have concerns about the AstraZeneca vaccine because of what has been seen in other countries?

The First Minister: I do not want to be churlish, but I think, from memory, that Mr Mason is significantly older than the First Minister. I anxiously await my vaccination appointment, as I am in the age group that is beginning to be called for vaccination. Like most people across the country, I am anxious—enthusiastic is probably a better word—to be vaccinated. As soon as I get the invitation, I will be there to get my vaccination, whether it is with the Pfizer or the AstraZeneca vaccine.

The chief medical officer said quite a lot yesterday to reassure people. Vaccine safety is paramount and is monitored on an on-going basis. There are well-established schemes, such as the yellow card scheme, to record adverse events, so the monitoring is very careful. We are aware of no evidence that suggests a risk from the AstraZeneca vaccine. Our firm view is that the benefits of that vaccine far outweigh any risk that there might be. That is the view of the Medicines and Healthcare products Regulatory Agency, which is the UK regulator, and the World Health

Organization and the European Medicines Agency have said the same thing.

My advice to people is to come forward for vaccination as soon as they are invited. That has massive benefit. People should be assured that the safety of vaccines is taken seriously on an on-going basis.

David Stewart (Highlands and Islands) (Lab): I am considerably older than the First Minister, and I am delighted to say that I have had my vaccination. Does the First Minister share my view that the good news from the European Medicines Agency today, that the number of blood clots in vaccinated people does not seem to be higher than in the general population, is a positive message for those who have been vaccinated or who are awaiting vaccination?

The First Minister: It is good news. I was paying close attention to the news from the European Medicines Agency earlier today. The agency is carrying out further review over the course of the next week. I am not a clinician or an expert, so I summarise the evidence as I understand it, based on the advice that has been given to me by the chief medical officer: there is no greater incidence of blood clots in people who are vaccinated than there is in the general population, and there is no definite association of causation between the vaccine and the blood clots in those who have experienced them.

The advice from the MHRA, which is the UK regulator, is that the risks are far outweighed by the benefits and there is no reason for people not to take the vaccine. That is also the view of the European Medicines Agency and the WHO. Getting vaccinated seriously and significantly reduces people's chances of becoming ill or dying from Covid. That is why everyone should come forward to be vaccinated as soon as possible. I am delighted to hear that David Stewart has already done so.

Ruth Maguire (Cunninghame South) (SNP): Today's announcement is positive, but many families—particularly those on low incomes—who are sick or find themselves in vulnerable circumstances are struggling as a result of the economic impact of the pandemic. Will the First Minister outline what measures the Scottish Government is taking to assist those people?

The First Minister: That is an important reminder that, in many different ways, the impact of the pandemic will be felt long after the Covid restrictions have been lifted. That will be true for many businesses, for public services and for individuals, some of whom were already struggling before the pandemic and others of whom have been plunged into financial difficulty because of the pandemic.

We have taken a range of different measures, including direct payments to low-income families with children, the extension of free school meals over holiday periods, increased funding for the welfare fund and for discretionary housing payments, and the introduction of protections against eviction. The new Scottish child payment was planned before the pandemic, but it has now come on stream and is starting to put money into the pockets of the lowest-income families. However, there is more to do. Just as we will continue to think about support for business, we will continue to support individuals who have been impacted the most.

Jamie Greene (West Scotland) (Con): Does today's framework announcement confirm that we are moving out of lockdown nationally at the same pace, with no scope for local easing? Can the First Minister assure businesses that the strategic business framework fund will continue if virus suppression and lockdown milestones are not met?

The First Minister: Yes. We will keep the infrastructure of the strategic business framework fund in place so that if we have outbreaks or there is a need for any regional lockdowns—although I hope that there will not be—it can be used to provide support for businesses, just as we did when we came out of lockdown previously and had to put regional measures in place.

We intend that all the country, which is currently in level 4, will come down to level 3 on 26 April. It would be impractical to do things regionally before that because of the need to get sufficient people vaccinated for it to be safe to lift restrictions.

Doing things that way allows us to ease travel restrictions, too, which is important for many people, especially in relation to family connections. However, as I have already said, we need to talk to island communities about some issues.

The levels system will be there if we need it. By the time we get to 17 May or thereafter, if much of the country can come down a level but there is one part that has stubbornly high prevalence, we will be able to use the system to vary the levels. That is important, because we do not want to hold any part of the country back because of the levels of the virus in others. Moving out of lockdown on a uniform basis, so that everyone has maximum benefit, is the best way to proceed in the immediate term.

Ross Greer (West Scotland) (Green): Colpi ice cream in Milngavie is one of a number of businesses that have struggled to access a business restrictions grant. It appears that that is because the guidance explicitly excludes takeaways, but the relevant regulations have since been amended to restrict the operation of

takeaways. If a takeaway business incurs a cost in adapting to meet the regulations, is it now eligible for a business restrictions grant?

The First Minister: If Ross Greer does not mind, I would like to look into the detail of the particular business so that I can give an answer that is accurate and appropriate to its circumstances, rather than a generic answer. If he wants to email my office now or later, I will get that looked into and come back to him with a specific answer.

Mike Rumbles (North East Scotland) (LD): I say to the First Minister that, as soon as questions on her statement are over, I will be off to the Edinburgh international conference centre to get my vaccination. I am looking forward to it—at last.

I turn to the serious bit. When the pandemic is over, will the First Minister learn the lesson that the Government should not introduce laws that are impossible for Police Scotland to enforce? Such laws put the police in an impossible position. Many normally law-abiding people honour the stay-at-home law and, in particular, the travel restrictions more in their breaching of them than in their observation, which simply undermines the rule of law.

God forbid that this situation should ever happen again, but although I recognise that it is, of course, quite right for the Government to advise and encourage people to stay at home, it should not rely on unenforceable laws, because that undermines the rule of law for many normally law-abiding people.

The First Minister: First, I wish Mike Rumbles well with his vaccination. There is no truth—none at all—in the rumour that I will immediately get on the phone to the vaccination centre to ask for a particularly sharp needle to be used this afternoon. [*Laughter.*] To be serious, however, it is really good and heartening for everybody to hear so many stories of people now getting their vaccination appointments.

We have not introduced laws that we know are unenforceable; we have, rather, of necessity introduced laws that we know are difficult to enforce, and we have worked very closely with Police Scotland throughout that. It has been frank with us when it has thought that we should change the balance of what we were doing and when it has thought that a particular regulation might be more difficult to enforce than others. However, it has done a sterling job in trying to work with the population and encouraging people to comply, and in using enforcement only where necessary.

I hope that we never have to be in such a position again and that, as we start to lift all the restrictions, we will never have to think about reimposing them. Overall, there is lots for us all to

learn from this, but one of the most positive things that has happened, I think, has been the way in which the vast majority of the general population have done everything that has been asked of them. They have made painful sacrifices and have got us again to a position from which we can start to look forward with some optimism. I, for one, will never be able to properly and adequately convey my gratitude for that.

Kenneth Gibson (Cunninghame North) (SNP): The First Minister will be aware that the UK Government is again failing to practise caution when it comes to air travel, thereby leaving us potentially more exposed to new strains of the coronavirus. The safeguarding of international entry routes is vital, but is the Scottish Government's approach working when travellers can arrive—and are arriving—at English airports then simply travel north? Given the UK's laissez-faire approach, our airports could lose a huge number of routes and, ultimately, jobs, as travellers simply dodge Scotland's airports, with no discernible health gain. How will the Scottish Government address that difficulty?

The First Minister: We continue to work with the UK Government and to seek to persuade it to take a more effective approach. There is no getting away from the fact that the position on managed quarantine would be more effective if it was applied uniformly across England, Wales and Scotland—and Northern Ireland, but particularly on the island. We continue to try to persuade the UK Government to do that, although thus far it does not appear to be willing.

We will continue to enforce the approach to the best of our ability, because it minimises the risk of new variants being imported. Of course, the main message right now is that people should not travel overseas unless it is essential; there should be very few people travelling overseas. I hope that as we go through the next few months, that will start to change as well, but it is likely to be one of the last things to change, because of the risk. In some countries, the position remains very volatile, and the risk of importing cases—especially of new variants of the virus—remains very real, so we must continue to be cautious.

Daniel Johnson (Edinburgh Southern) (Lab): At the end of last week, it became clear that there had been a major problem with the issuing of blue letters, in that people between the ages of 60 and 64 in the Lothians had not been receiving their appointments. That resulted in the health board making pleas on social media for people to call and find out whether they had an appointment.

I am informed that the problem has persisted and that some vaccination centres have had literally no patients over the past two days. Staff have been asked—I am using a source here—to

go out and drum up support from police stations or anywhere else to fill slots.

What has gone wrong? How did that happen? How many people have missed their appointments? Most important, how will those appointments be rescheduled, so that no one misses out on their vaccination?

The First Minister: That is an issue that I am aware of. We have been investigating it over the past few days and trying to work out where the problem lies—whether it is with NHS National Services Scotland, which is administering the centralised system, or with Royal Mail. We believe that it is possibly a Royal Mail issue, because other letters have been arriving, but we are still trying to bottom that out and resolve it. I will get the Cabinet Secretary for Health and Sport to update the member as soon as possible.

I give assurance to everybody who is expecting or receiving appointments that they will get their vaccination, and that if there is a need to rebook any appointments, that will be done through the system that is already in place.

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): I endorse Daniel Johnson's concerns. I hear many of the same concerns about NHS Lothian, in my constituency—but that is not what my question is about.

As the First Minister will expect, I very much welcome the opening of gardening centres—an issue that I have pursued—from 5 April. Can the First Minister clarify whether that will be affected by the stay-local rule—the rule that people should stay within their local authority area? For example, Dobbies Garden Centre and Pentland Plants are just outside the City of Edinburgh Council boundary, to the south. Will they be able to have people visiting from Edinburgh?

The First Minister: I would describe it less as Christine Grahame pursuing the issue and more as Christine Grahame pursuing me on the issue over the past few weeks. Between 5 April, when garden centres will reopen, and 26 April, the stay-local rule will apply, including to people visiting garden centres. Within the regulations, there is the ability, if it is essential, to go 5 miles outside one's local authority boundary, but the central rule for that three-week period will be to remain within one's local authority area.

As we start to ease restrictions, we have to mitigate against taking cases of the virus to different parts of the country. Once the stay-at-home rule is lifted, if people want to visit a garden centre or visit their family outdoors in a garden, they should stay within their own local authority area until 26 April when, we hope, travel

restrictions across mainland Scotland will be lifted completely.

Graham Simpson (Central Scotland) (Con): I welcome the news that travel restrictions are going to be lifted, but the First Minister did not say when we will be able to travel across the UK. Can she tell us when she will decide that? At the same time, can she say when she will be able to give us clarity on when families will be able to stay with each other?

The First Minister: Where I have not given specific dates it is because I do not yet feel able to do so. I hope that the travel restrictions between Scotland, other parts of the UK and the common travel area can be lifted on 26 April or, if not, as soon as possible thereafter. I said that we would update Parliament on that during April, because we need to guard against importation of cases and we need to be mindful of varying prevalence and, of course, varying levels of restrictions being in place or lifted in different parts of the UK. That is something that we have to consider carefully.

The position is similar on the ability to visit family indoors. It is already possible to see people outdoors in small groups—no more than four people from two households—albeit that initially, that must be within people's own local authority areas. From the end of April, travel across mainland Scotland will be allowed.

We hope that around that time we will be able gradually to reintroduce the ability to visit family members in their houses but, again, it is not possible to say that definitively right now. That is difficult, because, after everything that I have said today, it is the one thing that I want to be able to say to people, because it is the one thing that we all desperately want to do. However, the risk of transmission is greatest inside domestic dwellings, because it is harder to comply with mitigation in them. That is why I have said that we will not wait to review that every week, every two weeks or every three weeks; we will review it on an on-going basis so that we can return to that position just as quickly as we deem it safe to do so.

Tom Arthur (Renfrewshire South) (SNP): Throughout the pandemic, we have seen quite significant levels of variation in prevalence of the virus among and within local authority areas at neighbourhood level, with some communities having stubbornly high prevalence. What action is the Scottish Government taking to support communities in which suppression of the virus has proved to be more challenging?

The First Minister: Throughout the pandemic, we have worked very closely with Public Health Scotland, our senior clinicians network and the test and protect programme to try to support communities in which there are particular local

challenges and higher than average or stubbornly high prevalence. We will continue to do that and to provide support to local health boards and local councils where appropriate.

We have a national incident management team that regularly meets local directors of public health to share best practice and agree actions that will help to control outbreaks and drive down prevalence in local areas. One of the additional tools that we now have at our disposal and have been using is, of course, community asymptomatic testing. That has been targeted at areas in which prevalence has remained stubbornly high. We will make that available to communities in which we consider that it might help to get rates down.

John Scott (Ayr) (Con): The First Minister will be aware that two primary schools in my Ayr constituency have had to close, having reopened, because staff had caught Covid or had to self-isolate. Are such temporary closures to be expected in other schools across Ayrshire and the country? Will the First Minister again consider whether early vaccination could be considered for teachers and the police, who are still very much in the front line?

The First Minister: Like all the UK Governments, we are vaccinating in line with the Joint Committee on Vaccination and Immunisation's advice on priorities. As I have said many times, teachers and police officers will be included in those priority groups. By mid-April we will, supplies permitting, have vaccinated everybody over the age of 50 and, by the end of July we will have vaccinated the whole adult population. Teachers and police officers who have underlying health conditions or are older will be vaccinated earlier in the priority list. If we were to depart from that approach, we would rightly be criticised for prioritising other considerations over the advice from clinicians on the best clinical strategy to reduce the impact of the virus.

On the question about schools, while the virus is still circulating, there will, I regret, be outbreaks. I cannot stand here and say that those outbreaks will never affect schools. To do so is simply not possible or realistic. It is better to have schools open with, unfortunately and regrettably, some schools perhaps being affected by outbreaks, than it is to have all schools closed. If all schools are closed, we will never have that problem, but it would affect the most children.

We know that the more we bear down on community transmission, the less chance there will be of outbreaks in schools; that the more mitigations in schools are followed, the less chance there will be of outbreaks; that the more adults around schools follow all the rules, the less chance there will be of outbreaks; and that the more use that is made of the testing offer to staff

and pupils in secondary schools, the more we can reduce outbreaks. We cannot remove the prospect of outbreaks; all that we can all do is act in a way that reduces risk as much as possible, while we get as many children as possible in schools full time every single day.

The Presiding Officer: That concludes questions. I thank members for their understanding. I let the questions run on a little as it was a substantial statement and we wished to accommodate a number of members.

Before we move on to the next item of business, I encourage all members who are leaving the chamber to follow the one-way systems, make sure that they maintain social distancing, wear their masks, and observe the other rules that are in place on mitigation measures around the campus.

Global Capital Investment Plan

The Deputy Presiding Officer (Lewis Macdonald): The next item of business is a statement by Ivan McKee on a global capital investment plan. The minister will take questions at the end of his statement, so there should be no interventions or interruptions.

15:36

The Minister for Trade, Innovation and Public Finance (Ivan McKee): Today, the Scottish Government is publishing its first global capital investment plan. I am pleased to outline to Parliament how we intend to pivot to a purposeful and values-led approach to increasing levels of capital investment in our economy.

“Investing with Purpose: Scotland’s Global Capital Investment Plan” is the third of three pillars that are focused on internationalising the Scottish economy. The first pillar is “A Trading Nation”, our export growth plan, and the second is “Shaping Scotland’s Economy”, our inward investment plan. All are framed by our vision for trade, which sets out our principles underpinning the trade and investment relationships that we want Scotland to have now and in the future.

At this stage, I take the opportunity to thank the team who have worked on the plan in the past months for the tremendous effort and work that they have put into what I believe is a productive and essential document.

Private capital investment is the deployment of internationally mobile finance into a project or business in Scotland. It is different from inward investment, or foreign direct investment, which seeks to attract foreign-owned companies to directly set up or expand operations in Scotland, and so merits its own plan and focus.

I am also clear that private capital investment does not replace the crucial role of public investment or ownership. There are areas of our society that can, should and will remain funded solely by public sector investment, but we need to recognise that public sector investment alone will not be enough to respond to the challenges of the 21st century. This is not policy for its own sake; it is needed to deliver on our wider ambitions, particularly net zero.

Capital investment directly impacts immediate economic outcomes, which then impact the Scottish economy in the longer term. The supply of private capital can help businesses to realise their growth ambitions by removing key barriers to expansion. That impacts on productivity through better quality infrastructure as well as through companies growing and having competition or

demonstrator impacts on their sector. There are further impacts through supply chain and wider economic activity. Like the rest of the United Kingdom, Scotland has suffered from historical underinvestment, which is seen as a key driver of slow productivity growth over the past decades.

Although it is hard to measure, as a percentage of gross domestic product, the direct impact of increasing private sector business investment to the overall level seen among Organisation for Economic Co-operation and Development countries could permanently increase the level of GDP by around 1.9 per cent by 2030, which is more than £3 billion a year at current prices. That could then increase average earnings in Scotland by almost 5 per cent, which is around an additional £1,400 a year to the average Scottish employee at today's prices. Delivering on the plan would therefore have real economic consequences for Scotland's people and communities. In other words, it would be a significant boost to recovery and a further long-term boost to Scotland's economy and wellbeing. To marshal that potential into a real investment-led recovery will require us to understand and engage with what makes a project, a business or a location viable in the eyes of the market.

The plan seeks to increase the effective supply of capital by better understanding and targeting different sources of funding. It also seeks to put forward our best market-ready opportunities by using the strongest internationalised areas in the economy to create demand for investment. Finally, it seeks to bridge the gap by taking action to increase the viability and fit of what private capital markets want to invest in and the attractiveness of our investment propositions.

I go first to the industry that we need to work with. There is a wide range of investor categories and, within each type, a variety of individual investors, each with their own risk-and-reward preferences, timescales and investment mandates for individual funds. Our aim is to deepen over time our understanding of the needs of those different investors, in order to offer better tactical and strategic matches to individual projects.

Global investors frequently seek a local investment partner, which gives reassurance and helps to overcome information asymmetries. We must not underestimate the importance of the Scottish National Investment Bank in that space, or of making much stronger connections with the investment management sector that is based in Scotland, which already manages £590 billion of assets.

Scotland is already in a strong position to pivot towards impact, ethical or environmental, social and governance—ESG—investment. Scotland-based investment funds manage 11 per cent of

the UK's responsible investing market, compared with a 7 per cent share of the conventional market, and that has formed a significant part of the sector's strong growth in recent decades. The time is right for us to become a global hub for ethical investment.

Our inward investment plan identified the sectors in Scotland's economy that are globally competitive, crisis resilient and likely to offer growth that benefits the broader economy and society as well as the business itself. New analysis on capital investment has identified broadly the same sectors, underscoring them as the best opportunities that we have to use the global economy to build our domestic strengths.

The plan summarises those opportunities into four sectoral themes: low-carbon transition; health and life sciences; digital; and high-value manufacturing. Those four sectors are the most likely drivers of future economic demand in the economy. They are broad, and that is deliberate. Although the focus has to be on sectors that can drive growth and recovery precisely because they are already strong, the approach leaves space for different sub-sectors to develop and come to the fore over time and for particular regional clusters of expertise to be brought out.

From the beginning, we have set out to align with and help to deliver the private capital element of the investment needs that were identified in the infrastructure investment plan, the climate change plan and housing to 2040. Our commitment to net zero must underpin all that we do. We should no longer be putting public resource into originating, structuring and promoting investments in Scotland that are not aiming at net zero. By focusing on our priority sectors and employing a net zero and place focus, we can start to build demand that leads to viability. We can bring alignment between investments in business growth, infrastructure and commercial real estate, with a focus on the development of assets rather than simply changing their ownership. In other words, we will be building markets instead of individual investment opportunities.

We will expand and strengthen initiatives such as the green investment portfolio and the cross-organisational work to define projects for carbon capture and storage, heating and hydrogen. We should seek systematically to turn those into opportunities that are both commercially sound and structured in a way that supports a just transition.

I am aware that we are launching this plan while economic uncertainty around Covid-19 still remains, but now is not the time to sit back. We must be bold and support our businesses and projects with an investment-led recovery. Here and now, investment is flowing into exciting and

innovative companies, infrastructure projects and real estate. For example, European venture capital funds invested into Neurolabs, an early-stage computer vision start-up that is pioneering the use of synthetically generated data to develop object recognition models and opening up computer vision to a much wider range of applications. Further, although the real estate sector has been hit hard by the pandemic, major investments are continuing, such as the £81.5 million investment in the Candleriggs build-to-rent development in Glasgow.

Our ambitious plan contains 30 individual actions on how we will improve our approach to leveraging in private capital. They include proactively engaging with ESG investors and with sources of capital that are new to Scotland, such as green bonds, to help us achieve our net zero and wellbeing ambitions; establishing a new series A fund for innovative companies; strengthening the pipeline of investment opportunities across the public and private sectors; and targeting a programme of domestic and international events and activities that will help us to build new investor relationships.

Through the plan, we recognise Scotland for the forward-looking and collaborative nation that it is. Together with partners in business, academia and the public sector, we can shape markets that are attractive to investors. I encourage all partners to get behind the plan and help to make it a success.

I am delighted to present “Investing with Purpose: Scotland’s Global Capital Investment Plan” to Parliament, and I am happy to take questions on it from members.

The Deputy Presiding Officer: The minister will take questions on the issues that are raised by his statement. I intend to allow around 20 minutes for questions, after which we will move on to the next item of business. I remind members who have questions to press their request-to-speak buttons now.

Murdo Fraser (Mid Scotland and Fife) (Con): I thank the minister for advance sight of his statement. I welcome the Scottish Government’s focus on attracting private capital investment to help grow our economy post Covid. We are very pleased to be able to support that ambition, although I wonder how many international investors will be attracted to a country whose Government is proposing another independence referendum in the course of 2021, with absolutely no certainty as to what currency they might be investing in should independence come about.

I will ask two questions of the minister. First, what due diligence will be done on potential investors, given the recent unhappy experience that we have seen with the GFG Alliance group,

which is in serious financial difficulties? Secondly, although I welcome the emphasis in the minister’s paper on green growth, the oil and gas sector is still a very important part of the Scottish economy and a major employer, particularly in the north-east of the country. Can the minister assure us that nothing in the new plan will discourage international investment in oil and gas?

Ivan McKee: I thank Murdo Fraser for the questions. The answer to his first point is, of course, the pound.

With regard to due diligence, the GFG scenario has impacted both Scotland and the rest of the UK. Due diligence is clearly in place when opportunities in which the public sector is engaged are assessed. I make no apology for the fact that we work practically with investors to support and maintain industrial capacity in Scotland, with mitigating steps in place. We will see that as the process moves forward.

The oil and gas sector is well aware of and fully engaged in the just transition to renewables, as I am sure Murdo Fraser is aware. The focus is clearly on the transition to net zero, and the sector understands that. We engage closely with the sector to support the investments that will lead in that direction. The majors in the sector and the supply chain that supports them are fully engaged with and active in those investments in renewables.

Daniel Johnson (Edinburgh Southern) (Lab): I thank the minister for advance sight of his statement.

At a time of global pandemic, looking forward and looking towards investment are hugely important. Although I welcome the report, I am concerned about the lack of detail, both on the measurement of the potential size of such investment and, critically, on learning lessons.

As we have seen from previous foreign direct investment experience—Timex, Michelin and the Caley rail works—industry can be left at the mercy of decisions that are made elsewhere, and, when capital is removed, there is no long-lasting footprint in terms of jobs or industry.

Will the Scottish Government set out clear measures of the value that it seeks to gain and more specific targets for global investment? Given the issues with FDI and the recent collapses of partnerships that the Scottish Government has been involved in—notably with GFG—what work will be undertaken to learn lessons and apply them to global investment partnerships that the Scottish Government enters into? Finally, how does the plan for investment square with the Scottish Government’s decision in the budget that was passed just last week to reduce the level of

funding for the Scottish National Investment Bank from £240 million to £205 million?

Ivan McKee: Measurement is, of course, hugely important for tracking progress. Mr Johnson will be well aware that I always endeavour to ensure that that is part of any plan that we produce. If he looks at actions 2 and 26, he will see a commitment to put in place measurement metrics that will enable us to track our progress against the targets that we have set for Scotland's economy with regard to the capital investment that we attract—that is taken care of.

As for the investments that take place, we are talking about private sector investment and private sector opportunities, and the private sector takes its own due diligence approach. In situations where the public sector is also engaged, we would take steps to put due diligence in place—as we do.

That does not mean that every investment is always successful. By its nature, investment is a risk business. It is about understanding the balance between risk and reward and how to approach them. It is also about having the thorough due diligence that allows people to assess risks, take appropriate action and put in place mitigating measures to deal with any issues that arise with investments. Someone who wants a risk-free approach to investment never invests—that is the reality.

I welcome Mr Johnson's comments encouraging the process, and I would welcome his commitment and support for what we are trying to achieve, recognising that, as we come out of Covid, these steps are hugely important for the development of Scotland's economy.

Patrick Harvie (Glasgow) (Green): I am grateful for advance sight of the minister's statement on global capitalism: it was all very much in character.

The minister says that he wants Scotland to be "a global hub for ethical investment."

Does that mean that he will not be courting the interests of business entities that make any use of tax havens?

Ivan McKee: I am not quite sure where Patrick Harvie is going with that question. The reality is that private capital investment is hugely important to Scotland's economy. We recognise that we are not in a position—nor would we want to be—where every investment in every business or piece of real estate, every housing investment or every piece of infrastructure in the private sector is funded by the Government. We recognise that private sector investment is important to Scotland's economy, and any business that is

seeking further investment from the private sector would clearly recognise that, too.

Of course we are opposed to tax havens: that is not an approach that the Scottish Government welcomes. If Patrick Harvie is alluding to our green ports, which I am very happy to talk about, we are clear about all aspects of the green ports, and we will not proceed with them if we do not have conditions around fair work criteria—fair work first—or commitments on robust plans for the transition to net zero, or if there is not proper governance and enforcement in place to ensure that the current environmental, workplace and tax enforcement standards are in place, as with the rest of the economy.

Willie Rennie (North East Fife) (LD): The minister is right that Scotland can offer good opportunities in ethical investment. That strategy might have been of assistance when the Scottish Government signed an agreement with Peter Zhang and SinoFortone, which promised a £10 billion investment in Scotland, although there were unanswered questions about human rights abuses abroad.

What concrete steps has the minister taken to ensure that the Government does not get drawn into such an embarrassing situation again?

Ivan McKee: Willie Rennie follows these matters closely, so he will be aware that we recently published "Scotland's Vision for Trade", on which I answered questions in the Parliament. It addresses those matters in great detail. We have made it clear that that vision for trade underpins all three of our internationalisation plans for Scotland's economy: our export plan, our foreign direct investment plan and the global capital investment plan.

Taking steps to ensure that human rights abuses are addressed as part of the due diligence process is something that we have clearly articulated in our vision for trade, and we will take that forward at every stage where we are engaged, as the public sector, with investors who are seeking to come and invest in Scotland.

The Deputy Presiding Officer: I ask for succinct questions and answers, please. I will try to get everyone in.

Kenneth Gibson (Cunninghame North) (SNP): I warmly welcome the statement.

Scotland has long suffered from chronic underinvestment, which impacts on productivity, employment growth and prosperity, as the minister touched on. Which factors does he believe have most contributed to that? How will they be tackled if Scotland is to build a much more resilient economy?

Ivan McKee: “Investing with Purpose: Scotland’s Global Capital Investment Plan” identifies the sectors in Scotland’s economy that have demonstrated the greatest resilience during periods of economic crisis and downturn, and those are the sectors that have a real international comparative advantage that is mapped to strong global demand. The plan sets out how we will pivot our approach to target more ESG or ethical investment.

Globally, there is a strong move towards responsible investing, and the growth of such funds has even accelerated during the Covid-19 pandemic. By focusing on those funds that have demonstrated not only resilience but growth during the pandemic, we can increase the likelihood of a steady supply of investment being available to Scottish businesses, which in turn will support wider economic resilience.

Maurice Golden (West Scotland) (Con): The minister said that part of the plan is about

“taking action to increase the viability and fit of what private capital markets want to invest in and the attractiveness of our investment propositions.”

Does the minister believe that the threat of an independence referendum this year makes Scotland an attractive investment proposition?

Ivan McKee: Absolutely. Investors will be attracted by the opportunity of a Scotland that is able to chart its own course in the world. When they look at the top 10 economies around the world by GDP per capita, they will realise that although those countries are the same size as Scotland, none of them has the strengths that Scotland has in terms of natural resources, the capacity that we have in the industrial sectors that we have identified in the plan, and the skills base and university excellence that we have. None of those countries has those advantages. Investors will recognise that a Scotland that had the ability to chart its own future in the world would be a tremendous proposition for them to invest in, and that they could partner with us in a successful Scottish economy in an independent Scotland.

John Mason (Glasgow Shettleston) (SNP): The minister mentioned green ports. Could he expand on that point? Is he particularly looking for investment in green ports? What would the relationship be with the proposed capital investment programme?

Ivan McKee: Clearly, it is a private capital investment plan to support the structures whereby investors would seek out and be aware of investment opportunities in Scotland. That applies across business investment and real estate investment, and infrastructure investment in green ports might be part of that. There is an obvious synergy between the global capital investment

plan and green ports, both of which are underpinned by our commitment to net zero and fair work.

As John Mason knows, we are seeking to adapt the UK Government’s free port model to better suit the Scottish context. We need to direct public resource into originating, structuring and promoting investments that support our transition to net zero and create new, high-quality fair work opportunities through infrastructure such as green ports. The plan can help us to attract the right investments for green ports.

We cannot make any more progress on the publication of our applicant prospectus for green ports because of an inordinate and unacceptable delay by the UK Government in finalising its parts of the plan. There is now a real risk that the pre-election period in Scotland will begin without the applicant prospectus being launched because of the UK Government’s delay and prevarication, for which we see no obvious reason.

I am concerned that the delay suggests that the Tories’ free port policy might be about a race to the bottom, because they have failed to commit to the requirements that, for us, are red lines—fair work first and the transition to net zero. I make it clear that we in Scotland will not allow such a race-to-the-bottom model and that we remain firmly committed to ensuring that fair work first and net zero are at the heart of, and underpin, any green port model in Scotland.

Colin Smyth (South Scotland) (Lab): The communities that would arguably benefit most from capital investment are peripheral rural areas that suffer weaker economic indicators, such as Dumfries and Galloway, which is the lowest-wage economy in Scotland. What action will the Government take to seek to direct capital investment to those areas? How will the effectiveness of such action be measured, so that the warm words on inclusive growth start to become a reality for local economies that are being left behind?

Ivan McKee: The regional aspect is as central to “Investing with Purpose” as it was to our FDI plan, “Shaping Scotland’s Economy”, which we produced at the end of last year. If Colin Smyth reads it, he will see that there is a focus on regional aspects throughout the plan.

The plan is about understanding what the regions of Scotland have to offer and where their strengths lie, and working with them. I have had great meetings with councils, economic development partners and others across Scotland to understand where those strengths are. We have articulated those in the plan so that we can take those offers to the global capital market. The plan allow regions such as South Scotland, which the

member represents, to have a route to market. By articulating the opportunities that they have for capital investment, we will be able to reach the whole of team Scotland through the plan's work, thereby helping to attract investors to that region.

Bruce Crawford (Stirling) (SNP): I listened carefully to the answer that the minister gave to Colin Smyth. Will the minister provide further information on what steps can be taken to ensure that the opportunities and benefits of such capital investment are spread across the whole of Scotland, in particular to places such as Stirling, which—from the point of view of location and transport links—is fantastically well placed to benefit from such investment, and is Scotland's first gigabit city?

Ivan McKee: I thank Bruce Crawford for his question, which allows me to reinforce the centrality of the regional approach to the capital investment plan.

Global capital investment already impacts not only the major cities and the central belt, but all regions of Scotland. The plan has a specific focus on place and supporting economic opportunities that could be catalytic for local and regional economies. The place-based approach will further encourage investment in regions where there is already a sectoral advantage, and build clusters in priority sectors in which we know that there will be future demand, such as the aquaculture and life sciences cluster in Stirling, and the other sectors that Stirling's economy already has to offer, which Bruce Crawford mentioned. We will work to increase viability in those clusters and that, in turn, will bring investments to all parts of Scotland, including Stirling.

Graham Simpson (Central Scotland) (Con): The minister will be well aware that the Scottish Government's track record on investing in private businesses is decidedly ropery. It is so bad that the Auditor General for Scotland called on the Government to set out its future criteria for investing in companies. The plan does not appear to do that, so when will the minister publish such criteria?

Ivan McKee: It is a private capital investment plan, which is about attracting private capital into Scotland's economy. If he has read the plan, Graham Simpson will know that the role of the Scottish National Investment Bank is a key part of it, and that the bank is taking on the role across the public sector of pulling in all the other vehicles that have been used to invest public money in private businesses.

Graham Simpson talked about our track record. Across Scotland, there are many businesses—I meet such businesses every week—that are very supportive of the fact that the public sector in

Scotland has supported them on their growth journey. As a consequence, there are many great success stories.

Graham Simpson will also be aware that, as part of its operating mandate and mechanisms, the Scottish National Investment Bank has criteria for assessing and evaluating its investments.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): What steps can the Government take to ensure that investments will translate into high-quality jobs for the people of Scotland? In line with the questions of Bruce Crawford and Colin Smyth, I make a plea on behalf of my constituents in Kilmarnock and Irvine Valley, which has high levels of unemployment, that we might reasonably expect a share of those quality jobs.

Ivan McKee: Capital investment creates jobs in the economy, and the plan focuses our collective efforts around the four key sectors that our analysis has shown are the most likely drivers of future economic demand. Jobs in those sectors are primarily high skilled and high value, and pay higher-than-average wages. The focus of our capital investment plan is to attract investment into those sectors to create more job opportunities. For example, in the digital sector, the plan aligns with and supports the recommendations of the Logan review, which highlights the importance of upskilling at all levels and upskilling traditionally underrepresented groups.

Willie Coffey will know that I am fully aware of the opportunities that Ayrshire has to offer, and I miss no opportunity to signal to global investors that they should come and have a look at Ayrshire, along with all other parts of Scotland.

Claudia Beamish (South Scotland) (Lab): How will the Scottish Government help to facilitate the shift from what risk being high-carbon stranded assets to the sectors of the future? Will there be guarantees that recognise the just transition imperative and ensure low-carbon outcomes? I appreciate that that might be difficult, given that we are talking about private investment, but what robust measures and criteria will be in place?

Ivan McKee: Claudia Beamish will be aware that the transition to net zero is at the core of the plan. We make it clear that the focus of anything that we do in that regard must be on ensuring that the transition moves forward. As I said earlier, the sector is hugely engaged with and supportive of the transition. We work closely with the sector to ensure that the transition takes place in a way that allows businesses, communities and individuals and their families in different parts of Scotland to refocus their skills and efforts on the renewables sector.

The same applies to private capital investment. We are explicit that the focus is on attracting

private capital investment in the transition to net zero. We work hard to identify such investors, engage with them and attract them to Scotland, which is leading the world in many aspects of the transition to renewable energy.

Sandra White (Glasgow Kelvin) (SNP): In response to an earlier question, the minister mentioned GDP, which we know is not the only measure of economic success. In my mind, the recognition of wellbeing economies, which is shared by Scotland, New Zealand, Ireland and Wales, is of paramount importance. How will the global capital investment plan fit with the Scottish Government's work to deliver a wellbeing economy?

Ivan McKee: The choices that are set out in the plan explicitly seek to focus effort on attracting investment that generates wider spillover benefits and that aligns with our values on good global citizenship, tackling climate change and increasing wellbeing. Such investment creates high-quality jobs, which, in turn, support our inclusive growth ambitions and improve wellbeing. Private investment in innovative businesses and infrastructure can have an impact on wider social goals by, for example, improving digital connectivity and supporting health innovation.

In addition, increasing and sustaining direct investment in a low-carbon economy will accelerate the transition to net zero. That will not only reduce the impacts of climate change but create new industries and improve air quality and health outcomes. In addition to the projected impacts on GDP, increased private capital investment will bring wider spillover community impacts and will support greater wellbeing.

The Deputy Presiding Officer: That concludes questions on the statement.

In a moment, we will move to the next item of business. I remind members to follow social distancing measures in the chamber and beyond, particularly when accessing and leaving their seats.

Business Motion

16:08

The Presiding Officer (Ken Macintosh): The next item of business is consideration of business motion S5M-24379, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, which sets out a stage 3 timetable.

Motion moved,

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

Groups 1 to 6: 1 hour

Groups 7 to 10: 2 hours and 15 minutes

Groups 11 to 14: 3 hours and 10 minutes—[*Graeme Dey*]

Motion agreed to.

United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill: Stage 3

16:09

The Presiding Officer (Ken Macintosh): The next item of business is stage 3 proceedings on the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill. In dealing with the amendments, members should have before them the bill as amended at stage 2, the marshalled list of amendments and the groupings of amendments. As usual, the division bell will sound and proceedings will be suspended for five minutes for the first vote of the afternoon. The period of voting for each division will be one minute. Any member who wishes to speak in a debate on a group should press their request-to-speak button as soon as I call that group.

Members should now refer to the marshalled list.

Section 3—Power to modify the schedule

The Presiding Officer: Group 1 is on regulations under section 3. Amendment 1, in the name of the Cabinet Secretary for Education and Skills, is grouped with amendments 2 and 36.

The Minister for Children and Young People (Maree Todd): The schedule to the bill sets out the UNCRC requirements, which consist of text from the convention and the first two optional protocols. Section 3 gives the Scottish ministers the power to modify the schedule in specific ways by regulation. It is important that the Scottish ministers can modify the schedule in line with any changes to the UNCRC or its optional protocols, or when an optional protocol is ratified by the United Kingdom. It may also be appropriate to modify the schedule should the powers of the Parliament change in the future—for example, by adding articles of the convention that are not currently included due to reasons of legislative competence. The power is subject to the affirmative procedure, so there will be a high degree of scrutiny regarding its use.

At stage 2, I supported an amendment of Alexander Stewart's to require consultation in relation to regulations made under section 3. Amendments 1 and 2, which I will move, are minor drafting changes to make the effect of that provision clearer.

I support Ruth Maguire's amendment 36, which places on the Scottish ministers the same consultation requirements as are included elsewhere in the bill. That will require ministers to

consult the Children and Young People's Commissioner Scotland and the Scottish Human Rights Commission prior to using the section 3 power, ensuring consistency between the duty to consult in section 3 and similar provision elsewhere in the bill.

I urge members to support amendment 1 and amendments 2 and 36.

I move amendment 1.

Ruth Maguire (Cunninghame South) (SNP): The schedule to the bill sets out the UNCRC requirements, which consist of text from the convention and the first two optional protocols. Section 3 gives the Scottish ministers the power to modify the schedule in specific ways by regulation. Amendment 36 builds on the amendments that were made at stage 2 by requiring consultation with the Children and Young People's Commissioner Scotland and the Scottish Human Rights Commission when the Scottish ministers make regulations under section 3, in line with the other consultation requirements in the bill. That synergy and consistency seem both appropriate and necessary. I welcome the minister's support for amendment 36.

Jamie Greene (West Scotland) (Con): I confirm briefly that the Scottish Conservatives will support all the amendments in group 1, and I specifically commend Ruth Maguire's amendment 36. Although it is an Equalities and Human Rights Committee bill, the Education and Skills Committee has heard frequently from the commissioner, especially on issues involving the effects of lockdown measures on children and young people. The commissioner's inclusion in consultation is welcome, and I note that the Government has done that at stage 3.

We may oppose a number of amendments, which I will speak to as and when we get to them. However, we will be pleased to support the majority of the amendments this afternoon.

Amendment 1 agreed to.

Amendment 2 moved—[Maree Todd]—and agreed to.

Amendment 36 moved—[Ruth Maguire]—and agreed to.

Section 4—Interpretation of the UNCRC requirements

The Presiding Officer: Group 2 is on interpretation of the UNCRC requirements. Amendment 3, in the name of the Cabinet Secretary for Education and Skills, is grouped with amendments 4, 5, 16 to 19, 23 and 24.

The Deputy First Minister and Cabinet Secretary for Education and Skills (John

Swinney): It is of fundamental importance that the requirements of the United Nations Convention on the Rights of the Child that are incorporated by the bill are interpreted and applied within the full context of the UNCRC itself, including the preamble and excluded provisions that cannot be incorporated within the powers of the Parliament at the present time.

It is also important that the requirements are interpreted and implemented using the rich sources of authoritative but non-binding materials produced by the UN Committee on the Rights of the Child, when relevant. The courts can and do, as a matter of course, consider a wide range of sources of interpretation that are relevant to the cases that come before them. The purpose of section 4 is to bring transparency to, and to recognise the significance of, sources that are fundamental to the understanding, interpretation and implementation of children's rights. The intention is that the bill should promote understanding of those sources and that their use should become routine practice among public authorities, courts and practitioners in support of children and young people and the fulfilment of their rights.

16:15

That is why we sought to address the matter at stage 2. At that stage, members of the Equalities and Human Rights Committee also made amendments to section 4. As we indicated during the stage 2 debates, we are concerned that some of those amendments might have unintended consequences. In particular, ministers are concerned that, although section 4(1), as amended at stage 2, requires the courts to take sources into account only when they consider them to be relevant, the courts will first have to consider all the sources to determine what is and is not relevant. That risks placing a disproportionate burden on litigants and the courts, and it could therefore delay the achievement of effective remedies for breaches of children's and young people's rights. The changes to section 4 also risk the sources that are included in that section being interpreted in a way that is not intended. The sources are widely understood to be authoritative sources of interpretation, but they are not legally binding.

Since stage 2, the Scottish Government has continued to work with key stakeholders, including the Children and Young People's Commissioner Scotland and Together, the Scottish Alliance for Children's Rights, to better understand what those stakeholders were seeking to achieve and to explore how best to achieve it. We have lodged a range of amendments that we understand carry stakeholder support, which will restore—and

improve—the approach in section 4 and elsewhere in the bill as introduced.

Amendment 3 will restore the original drafting in section 4(1), to avoid the unintended consequence that I set out. That will allow courts to retain discretion in relation to whether any sources should be taken into account in cases that come before them.

Since stage 2, key stakeholders including the children's commissioner and Together have expressed interest in expanding the list of sources that is set out in section 4(2). We are clear that the UNCRC requirements should be interpreted in their full international context. It is important that we provide for that in a way that is not exclusive or prescriptive and does not prevent the list of sources from being added to in the future.

Amendments 4 and 5 seek to achieve that aim. Amendment 4 will remove new paragraph (g) of section 4(2), and amendment 5 will remove the detailed list at subsection (5) of section 4. Paragraph (g) of section 4(2) will be replaced by a much broader provision, to include

“other international law and comparative law.”

That will ensure that it is clear in the bill that there is a rich tapestry of global human rights instruments and law that can assist courts, practitioners and public authorities in the interpretation and implementation of children's rights under the UNCRC, whether that assistance comes from the United Nations, the Council of Europe or other jurisdictions.

I am delighted that the recommendations of the national task force for human rights leadership were published on Friday. After the forthcoming elections, the Parliament will have the opportunity to consider how best to deliver a human rights framework for all. Our work on the bill provides a strong foundation for that work and recognises the intersectionality of human rights.

It will be important that children's rights under the bill are considered in the context of wider international human rights obligations under, for example, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of Persons with Disabilities, which have a direct impact on the fulfilment of children's rights under the UNCRC. Amendments 4 and 5 will ensure that that wider international context and intersectionality are provided for, based on current relevant conventions and potential conventions to come.

As amended at stage 2, sections 12 and 13 place requirements on the Scottish ministers to publish a children's rights scheme and to review the scheme and its operation every year. It is intended that those mechanisms will afford

transparency and accountability to the steps that ministers take or plan in relation to the compatibility duty in section 6 and to steps that are taken to give better and further effect to the rights of children.

Amendments 16 to 19 and 23 and 24 will therefore provide for the consideration of relevant international or comparative law in relation to sections 12 and 13, thereby creating an approach that is consistent with that of section 4. They will ensure that the Scottish ministers consider the sources that amendment 4 will add to section 4 when they make, amend or report on the children's rights scheme.

I welcome the fact that members of the Equalities and Human Rights Committee encouraged us to take a closer look at our approach to those key matters, particularly the intersectionality of rights, laws and conventions. I hope that what the amendments in group 2 will put in place gives members confidence that we have the right approach and that members will therefore support all the amendments in the group.

I move amendment 3.

Jamie Greene: The amendments in this group would effectively reverse some of the changes to the bill that were made by majority in the committee at stage 2, and I am not entirely convinced that the case has been made for the removal of those changes. In amendment 3, for example, it may seem a small thing to change "must" to "may", but the effect of doing so would be to weaken the bill's ability to allow courts the flexibility needed to consider every aspect of the UNCRC and related texts. If the UNCRC is to be incorporated into Scots law as fully as possible, it is only right that the courts must consider both the UNCRC and any related texts. That is the key, so far as it is relevant to the interpretation of the UNCRC. Therein lies the get-out. It is down to the courts' opinions and subjectivity which section 4(2) issues they take into account.

Amendments 4 and 5 also seek to undo improvements that were made to the bill at stage 2. The amendments would remove explicit references to the United Nations treaty, general comments, concluding observations and comparative law. We feel that the inclusion of those references strengthens this section of the bill by ensuring that the courts adopt a comprehensive approach in their interpretation of the UNCRC requirements.

The cabinet secretary mentioned wanting to have a rich tapestry of sources available. He will not get a rich tapestry by removing things from the bill in the manner suggested, so we will vote against all the amendments in the group.

John Swinney: I will briefly address the issues that Jamie Greene has raised. He has cited particularly the provisions in amendment 3, but I do not accept his interpretation of the amendment. We are trying to recognise the importance of the courts being able to take the widest possible view on sources of interpretation, so that they can consider any issues that are presented to them. We are trying to take the most open approach possible in order to enable the courts to exercise the widest possible scope and, as a consequence, take into account the broadest range of factors in determining what would be appropriate sources of interpretation. That is the basis on which the Government has lodged the amendments.

My general point on the group is that we are specifically expanding the range of sources that can be included to include other international law and comparative law. I hope that that demonstration of further steps that have been taken to expand sources provides the necessary reassurance to Parliament that the Government's intention in section 4 is to enable the broadest perspective to be taken in the interpretation of the requirements of the convention.

The Presiding Officer: The question is, that amendment 3 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: We are not agreed. As this is the first division of the afternoon, I suspend the meeting for five minutes to call members to the chamber and to allow members who are online to access the voting app.

16:23

Meeting suspended.

16:30

On resuming—

The Presiding Officer: We move to the division on amendment 3.

The vote is now closed. Members should please let me know if they could not vote.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (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)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 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)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (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) (Ind)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Reform)
 Bowman, Bill (North East Scotland) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Corry, Maurice (West Scotland) (Con)
 Davidson, Ruth (Edinburgh Central) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Harris, Alison (Central Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Mason, Tom (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

The Presiding Officer: The result of the division is: For 85, Against 25, Abstentions 0.

Amendment 3 agreed to.

Amendment 4 moved—[John Swinney].

The Presiding Officer: The question is, that amendment 4 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

The vote is closed. Members should please let me know if they could not vote.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Ballantyne, Michelle (South Scotland) (Reform)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (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)

Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 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)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (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) (Ind)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Balfour, Jeremy (Lothian) (Con)
 Bowman, Bill (North East Scotland) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)

Carson, Finlay (Galloway and West Dumfries) (Con)
 Corry, Maurice (West Scotland) (Con)
 Davidson, Ruth (Edinburgh Central) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Mason, Tom (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

The Presiding Officer: The result of the division is: For 86, Against 25, Abstentions 0.

Amendment 4 agreed to.

Amendment 5 moved—[John Swinney].

The Presiding Officer: The question is, that amendment 5 be agreed to. 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, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (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)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 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)

Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 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)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (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) (Ind)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Reform)
 Bowman, Bill (North East Scotland) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Corry, Maurice (West Scotland) (Con)
 Davidson, Ruth (Edinburgh Central) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)

Mason, Tom (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

The Presiding Officer: The result of the division is: For 83, Against 26, Abstentions 0.

Amendment 5 agreed to.

Section 6—Acts of public authorities to be compatible with the UNCRC requirements

The Presiding Officer: The third group of amendments is on the meaning of public authorities. Amendment 6, in the name of John Swinney, is grouped with amendments 7 to 9.

Maree Todd: Section 6 is critical to the bill: it contains the central compatibility duty, which will require, to the fullest extent possible within the Parliament's powers, that public authorities do not act incompatibly with the UNCRC requirements set out in the schedule. Section 6, therefore, needs to be as strong and accurate as it can be.

The definition of a "public authority" in section 6(1) is intentionally wide and will include the full range of public authorities that it is possible to cover. Section 6(3) provides that that includes, in particular, the Scottish ministers, a court or tribunal and

"any person certain of whose functions are functions of a public nature".

That final element is intentionally broad and is designed to capture the wide variety of public functions that are, and may be in the future, undertaken by those other than core public authorities.

I understand why Mary Fee sought to include the further provision at section 6(3)(a)(iv) and the intent behind her amendment at stage 2. We all want it to be crystal clear and for there to be no doubt that all public bodies that have functions in relation to the care of children should be included in the definition of a public authority in the bill. I assure Mary Fee and other members that those functions were already captured by the wording of section 6 prior to the amendment, and will continue to be captured without including the provision in the bill.

Far from achieving the desired effect, the provision potentially has the opposite effect, in that it may suggest that other functions that are not specifically named are not included, and that could create uncertainty about the otherwise wide application of the definition of a "public authority" in section 6. That is why we have lodged

amendment 7. I hope that members will understand those reasons and support amendment 7.

There are also potential unintended consequences of paragraph (b) of section 6(3A), which risks unintentionally narrowing the scope of section 6(3A)(a) and therefore the compatibility duty more broadly. However, I understand the intent behind that provision. I have been clear that it is the Scottish Government's intention that the requirement not to act incompatibly with the UNCRC requirements should extend to others where they are carrying out functions under contracts or other arrangements with public authorities. That is the effect of section 6(3A)(a). I do not believe that that should be subject to the further qualification in section 6(3A)(b) that the core purpose is the provision of a service that fulfils children's rights. That could introduce confusion in relation to the scope of the UNCRC requirements in contracting out arrangements, which is not what is intended. Amendment 8 seeks to remove that provision and amendment 9 seeks to replace part of it.

Section 6 is broadly modelled on an equivalent provision in section 6 of the Human Rights Act 1998. However, the bill as amended at stage 2 seeks to go further than the 1998 act by making additional provision—in section 6(3A)(a)—in relation to contracting out arrangements. That reflects the fact that, for some years now, public services in Scotland have been provided by a wide range of core and hybrid public authorities, third sector bodies and private providers.

There is concern among stakeholders that the courts' interpretation of what constitutes a function "of a public nature" under the 1998 act has become overly narrow. I have sympathy with that concern, which is why the Scottish Government lodged an amendment at stage 2 to introduce what is now section 6(3A)(a) and make it clear that functions that are

"carried out under a contract or other arrangement with a public authority"

fall within the scope of the compatibility duty in section 6. Amendment 9 seeks to provide certainty that how a function is funded should not determine its classification as a function "of a public nature".

Amendment 6, which is the other Government amendment in the group, is a minor amendment to improve the wording of section 6.

I hope that members accept that amendments 6 to 9 are helpful as they will apply greater clarity and certainty to this vital duty, and that members will support them.

I move amendment 6.

Jamie Greene: I thank the minister for clarifying the intention behind amendments 6, 8 and 9, which will make helpful changes to the bill. However, we still have difficulties with amendment 7. Let us take a look at its effect.

Section 6 states:

"It is unlawful for a public authority to act in a way which is incompatible with the UNCRC".

It goes on to say what the term "public authority" includes, but the Government's amendment 7 seeks to remove the phrase

"all public bodies who have functions in relation to the care of a child",

which was included at stage 2. The argument has been made that its inclusion is in some way restrictive rather than inclusive. The Government argues that it somehow narrows the definition of "public authority", but we would argue that it widens it and makes it inclusive.

Perhaps "all public bodies" would have been a better phrase, but we have the wording that was inserted at stage 2, which the committee agreed to, and we believe that it should remain. I am not convinced that the case has been made for its removal. Surely

"all public bodies who have functions in relation to the care of a child"

should be encompassed in what is the very essence of the bill. As was stated, section 6 is one of the most important sections of the bill. Perhaps the minister could explain when she sums up why she believes that removal of the phrase

"all public bodies who have functions in relation to the care of a child"

is necessary.

The Presiding Officer: I invite the minister to wind up.

Maree Todd: I am grateful to Mr Greene for his support for some of the amendments in the group. We need section 6 to be as strong and accurate as it can be.

Amendments 7 and 8 address the concern that the latest provision suggests that functions that are not specifically named are not covered by the duty not to act incompatibly. The concern is that the specific provision in relation to the care of children undermines the general application of the compatibility duty to all functions of public authorities. It introduces the idea that children's rights are relevant only in certain children's services, which is not at all desirable.

Jamie Greene: Again, the tone of that is that the provision somehow restricts the application of the bill. The phrase that the Government is trying to remove is

“all public bodies who have functions in relation to the care of a child”.

There is nothing restrictive about that.

Maree Todd: It is by definition restrictive because it says

“who have functions in relation to the care of a child”.

We are trying to produce a bill that will introduce compatibility duties on all public authorities and the idea that children’s rights are relevant in every sphere of public life and society.

An example that I would give is the digital environment. Arguments are put forward that children do not need to be protected in digital areas that are not targeted at children. I would argue that children need to be protected entirely in the digital environment. The compatibility requirement should not be targeted just at those areas that are specifically directed at children; it needs to be broader than that. Children are everywhere, which is why we are concerned about the restrictive nature of the provision and why we are keen to remove what we perceive to be an unintended restriction. In addition, Mary Fee’s amendment introduced the term “public bodies”, which added a complexity, as that term is not used elsewhere in the bill.

To guard against a narrow interpretation of what constitutes a function of a public nature, amendment 9 provides certainty that how a function is funded should not determine its classification as a function of a public nature. Again, I would be grateful for the chamber’s support for that amendment.

16:45

Amendment 6 agreed to.

Amendment 7 moved—[Maree Todd].

The Presiding Officer: The question is, that amendment 7 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

The vote is closed. Members should please let me know if they were not able to vote.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (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)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (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) (Ind)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Reform)
 Bowman, Bill (North East Scotland) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Corry, Maurice (West Scotland) (Con)
 Davidson, Ruth (Edinburgh Central) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Mason, Tom (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Wells, Annie (Glasgow) (Con)

The Presiding Officer: The result of the division is: For 84, Against 25, Abstentions 0.

Amendment 7 agreed to.

Amendment 8 moved—[Maree Todd]—and agreed to.

Amendment 9 moved—[John Swinney]—and agreed to.

Section 7—Proceedings for unlawful acts

The Presiding Officer: Group 4 is on regulations under section 7. Amendment 10, in the name of the cabinet secretary, is grouped with amendments 11 to 13 and 37.

John Swinney: Section 7 makes provision about proceedings in relation to acts of public authorities that are incompatible with the UNCRC requirements. As amended at stage 2, section 7(5) places a duty on the Scottish ministers to do certain things by regulations in relation to remedies for tribunals—that is, adding to the relief or remedies that a particular tribunal can grant, the grounds on which they can be granted and the orders that the tribunal may make.

The duty on the Scottish ministers applies where they consider that regulations are necessary to ensure that the tribunal can provide appropriate remedies for breaches of the compatibility duty in the bill. That is intended to ensure that, where a tribunal does not have the power to provide an appropriate remedy for a

breach of the compatibility duty, the Scottish ministers can take steps to provide for that quickly, without having to resort to primary legislation.

As the minister set out at stage 2, the section 7(5) power is subject to parliamentary scrutiny through the affirmative procedure, which reflects the fact that the making of regulations under section 7(5) cannot be guaranteed by the Scottish ministers. Amendments 10 to 13 adjust that provision, so that the duty on ministers is instead to lay draft regulations before the Parliament in the circumstances set out in section 7(5).

The technical amendments in this group seek to provide absolute clarity and accuracy in the bill about the purpose and effect of the added provisions.

I move amendment 10.

Ruth Maguire: Section 7(5) of the bill requires that the Scottish ministers must, in certain circumstances, lay regulations to add to the remedies that a particular tribunal can award. The requirement will apply where the Scottish ministers consider it necessary to ensure that the tribunal can award an appropriate remedy where a public authority has acted incompatibly with the UNCRC requirements.

Amendments were made at stage 2 that require the Scottish ministers to consult

“such persons as they consider appropriate”

in making such regulations. Amendment 37 seeks to apply greater clarity and consistency on who should be consulted. It will further provide in section 7(5A) that specific consultation is required with the Commissioner for Children and Young People in Scotland and the Scottish Commission for Human Rights, in line with the other consultation requirements in the bill.

I welcome the Scottish Government’s support for the amendment.

John Swinney: I simply place on the record that the Government fully supports Ruth Maguire’s amendment, which will place the same consultation requirements on the use of that power that are included elsewhere in the bill. I urge members to support amendments 10 and 37.

Amendment 10 agreed to.

Amendments 11 to 13 moved—[John Swinney]—and agreed to.

Amendment 37 moved—[Ruth Maguire]—and agreed to.

After section 10A

The Presiding Officer: Group 5 is on guidance on part 2. Amendment 38, in the name of Mary Fee, is the only amendment in the group.

Mary Fee (West Scotland) (Lab): The issue of guidance has been of interest to many stakeholders and many members across all parties throughout the consideration of the bill, which prompted me to lodge my amendments in relation to that at stage 2. However, I was happy to listen to the minister and not to press those amendments.

As with much else in the bill, the issue has been proceeded with in a spirit of co-operation and consensus. I am pleased that we have been able to do that in making the provision of guidance statutory.

I acknowledge and welcome the fact that the Scottish Government always intended to prepare and publish guidance, but it is important that that commitment is made a requirement and that it is clear through the bill that guidance will be made available in support of effective implementation. Amendment 38 will deliver that. It will ensure that ministers are required to issue guidance in support of part 2 of the bill and that there is wide consultation, including with children and young people, on what is contained in the guidance.

Although guidance will not replace the responsibility that all public authorities will have to ensure that their actions are compatible with children's rights, the amendment will strengthen the bill and ensure that public authorities are supported to fulfil the rights of children and young people.

I hope that members across the chamber agree with me and will support the amendment.

I move amendment 38.

Maree Todd: I thank Mary Fee for not pressing her amendments in relation to guidance at stage 2 and for allowing us the time to discuss the issues with her and stakeholders.

It has always been the Scottish Government's intention that a range of guidance and materials would be developed in partnership to support effective implementation of children's rights. This is, after all, groundbreaking legislation, and there will be a lot to think about in how we can best go about implementing its duties. Authorities and individuals will rightly need help and support on that. Officials are already engaging closely with public bodies and other key stakeholders to ensure that they are supported to realise children's rights in practice. That will be fundamental to the bill's success.

However, as I said at stage 2, Government guidance cannot and should not replace the responsibility that will rest on all public authorities to ensure that they comply with their duty under section 6. Guidance is not a substitute for considering the rights of children in all

circumstances or for public authorities being proactive in their consideration of what that means for the delivery of their services to children and young people. It is only through a proactive culture of everyday accountability for children's rights across public services that we can ensure that children's rights are fully protected, respected and fulfilled.

I thank Mary Fee for her co-operation and welcome amendment 38 to require the Scottish ministers to issue guidance to support the implementation and operation of part 2 of the bill.

Amendment 38 agreed to.

Section 11—Children's Rights Scheme

The Presiding Officer: Group 6 is on the children's rights scheme. Amendment 14, in the name of the cabinet secretary, is grouped with amendments 39, 15, 40, 41, 20, 21 and 22.

Maree Todd: The children's rights scheme, which is provided for in section 11, is a crucial and fundamental mechanism to promote and deliver the aims and ambitions that underpin the bill to proactively change the culture in Scotland. I welcome the significant and positive engagement from members and stakeholders with the scheme's provisions throughout the bill process. We all want to see the scheme strengthened where possible, particularly in relation to the list of matters that are included in section 11(3).

On the Government amendments in group 6, amendment 14 strengthens section 11(3)(a), and recognises the important role that children's advocacy services can play in ensuring that children are able to participate in the making of decisions that affect them. If we want children to participate in making decisions that affect them, we must recognise that they require support to do so, particularly when they have additional support needs or face challenges or barriers to knowing their rights. Amendment 14 strengthens the scheme in that respect.

Amendment 15 will ensure that there is additional transparency around the protection of children's rights in private settings. The bill ensures that there is direct accountability, through the compatibility duty in section 6, in relation to all public functions. This reflects the fact that the UNCRC, as do other international human rights treaties, places obligations on states to ensure that rights are respected, protected and fulfilled.

The compatibility duty in section 6 will mean that ministers will be required to take all measures required by the UNCRC requirements, which could include legislative measures, to ensure that children's rights are protected in private settings. Amendment 15 adds to that by seeking to provide transparency in relation to that dimension of the

duty on ministers, and in relation to steps taken by ministers to give better and further effect to the rights of children in private settings. In implementing that requirement through the children's rights scheme, the Scottish Government will consider best practice globally and will be guided by, among other things, the UN's "Guiding Principles on Business and Human Rights".

Amendments 20 and 21 are technical and I hope that their purpose is clear. They ensure consistency between section 11(1) as amended at stage 2 and section 13(3), and they will require that reports about the children's rights scheme under section 13(3) must also include a summary of the actions taken by the Scottish ministers for the purpose of

"securing better or further effect of the rights of children" in the reporting period.

Amendment 22 is a minor technical amendment that improves the wording of section 13(3).

On amendment 39, the Scottish Government supported the inclusion of section 11(3)(aa) in the bill at stage 2, and we are happy to support amendment 39, which seeks to provide the further clarity that Together and the children's commissioner are seeking, not least through the annual scrutiny and associated reporting requirements for the scheme. We can all agree that we should all be doing everything that we can to identify and address the needs of children who are most at risk of their rights being unfulfilled.

The Scottish ministers also support amendment 40, and I pay tribute to all that Mark Griffin has done during the current and previous parliamentary sessions to promote the communication support needs of children and young people. The Scottish ministers will be happy to help to give effect to amendment 40 in practice by ensuring that information on how to communicate inclusively with children and young people will be included in all relevant guidance issued in support of the bill, and we will of course involve key stakeholders in that work.

I move amendment 14 and encourage members to support all the amendments in this group.

17:00

Joe FitzPatrick (Dundee City West) (SNP): I think that all the committee members agreed with the intention of the stage 2 amendment on this issue that was agreed to, if not on the execution. As drafted, it did not quite achieve what it set out to do. Therefore, amendment 39 seeks to ensure that there is good transparency and accountability through the children's rights scheme for steps taken by the Scottish ministers to "identify and

address" the needs of children who are most at risk of their rights being unfulfilled.

To ensure that children's rights are realised for all children and young people, it is essential that scrutiny in relation to the barriers faced by those whose rights are most at risk of being unfulfilled is prioritised. Amendment 39 has been developed through co-working with members of Together. Together said:

"This amendment is about making sure that we understand and recognise the rights issues facing children and young people from specific population groups.

This will include children and young people with learning disabilities, care experienced children and young people and children and young people who are impacted by parental imprisonment".

Ensuring that the experience of those children and young people is reflected in the children's rights scheme is critical. Those children can face considerable barriers to accessing their human rights and we can see evidence of that when we think about the experience and life opportunities of children and young people with learning disabilities. For example, recent findings from the Scottish Learning Disabilities Observatory showed that premature mortality was 12 times higher for children and young people with learning disabilities than for the rest of the population. That is simply unacceptable.

Amendment 39 is therefore important because it will ensure that there will be a focus in the children's rights scheme on the barriers that are faced by those children and young people whose rights are most at risk and on the steps that ministers plan to take to address that. That was the intention of the stage 2 amendment, but its drafting did not quite achieve that. That is what my amendments correct. Amendment 41 is a technical amendment with the purpose of removing a redundant definition.

As was conveyed by the minister in relation to amendment 14, which I am pleased to support, the provision of advocacy or other support services will be critical for some children to enable them to participate in decisions that are made about them. In a similar vein, I also support Mark Griffin's amendment 40, which will ensure that children with the most complex support needs are able to receive inclusive communication. We should not underestimate the difference that having such statutory duties and requirements in place will make for some children. I am also happy to support the other amendments in the group.

The Presiding Officer: Thank you, Mr FitzPatrick. It was a slightly bad line, but I think that most members will have been able to follow that.

Mark Griffin (Central Scotland) (Lab): We will be supporting all the amendments in this group.

Amendment 40 in my name is sponsored by the Health and Social Care Alliance Scotland and deafscotland, as well as Together. I am grateful for the discussions that we have had with the Government and to have the support of ministers today. Members will be aware that inclusive communication amendments have been included in other legislation—the Social Security (Scotland) Act 2018, the Consumer Scotland Act 2020 and the Coronavirus (Scotland) (No 2) Act 2020. Each placed duties on the Scottish Government to use inclusive communication while exercising its functions under those acts.

Although inclusive communication is required directly and indirectly in the UNCRC, the further duty to use and promote inclusive communication introduced by amendment 40 will realise the convention's objectives and it ties in with articles 2, 12, 13, 17 and 29. However, because the bill works differently, so too does the amendment. It makes provision for inclusive communication explicit in the bill through the requirements of the children's rights scheme. Communicating in a way that is inclusive of all people, particularly those who have a disability or specific communication needs, means that information can be better received, understood and accepted by the widest audience. Doing that recognises that people understand information and express themselves in different ways.

Although there has been some discussion about a wider inclusive communications bill to put that principle into Scots law, I hope that members will support amendment 40 to secure its inclusion in this important piece of legislation.

Jamie Greene: We welcome the children's rights scheme that is included in the bill. However, I want to speak against amendments 39 and 41, the latter being a technical amendment that is consequential to amendment 39. This is, in effect, about a provision that was added by an amendment at stage 2, which reads:

"The Scheme must ... ensure that children who have one or more protected characteristics or are in a situation of vulnerability have their rights respected, protected and fulfilled".

I find it hard to disagree with any of that. I believe that Mr FitzPatrick said—although it was quite difficult to hear his argument—that, as drafted, it does not achieve what it sets out to achieve. I think that he has failed to make the case as to why it fails to set out what he wants to do.

Mr FitzPatrick's amendment 39 removes those lines and inserts wording that I also find it hard to disagree with. However, that begs the question of why the wording that Mr FitzPatrick has suggested

replaces, instead of adds to, what is already in the stage 2 version of the bill. If it was simply adding the wording, as he recommended, we would be minded to support amendment 39, but it does not do that—it replaces the wording. Therefore, we will not support it.

Alex Cole-Hamilton (Edinburgh Western) (LD): I wish to speak in favour of all the amendments in the group, but particularly amendment 40, in the name of Mark Griffin. That he has submitted it speaks to Mark's contribution to the chamber over the years in terms of his dedication to speech and language. It speaks to the values of the bill that we are passing, and in particular article 12, which is about hearing the voice of the child.

Communication is still a problem in Scotland. Seeking out, listening to and understanding the views of the people who we are doing things to and around has always been a problem. The special rapporteur under the United Nations Convention on the Rights of People with Disabilities often comes back and says that we should be doing more, particularly around mental welfare, including to get the views of the people who we are trying to assist. I absolutely support Mark Griffin's amendment, and the Liberal Democrats will support all the amendments in the group.

The Presiding Officer: I call the minister to wind up on the group.

Maree Todd: I think that amendment 14 strengthens the children's rights scheme and recognises the important role that children's advocacy services can play in ensuring that children are able to participate in the making of decisions that affect them. Amendment 15 requires ministers to set out the steps that they have taken to give better and further effect to the rights of children in private settings. I am grateful for all the parties' support on those amendments.

Amendments 39 and 41, on children whose rights are at risk of not being fulfilled, concern children who have protected characteristics or are in "a situation of vulnerability"—that was the wording that was passed at stage 2. We think that that wording has certain failings and challenges, although we support its intent, and we are keen to amend it. Amendment 39 simply seeks to achieve better wording for the same intent. It has the support of key stakeholders and of Mary Fee, who pressed the stage 2 amendment. I would be grateful for members' support for those amendments, too.

Amendment 14 agreed to.

Amendment 39 moved—[Joe FitzPatrick].

The Presiding Officer: The question is, that amendment 39 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division. This is a one-minute division.

That vote is now closed. Please let me know if you were not able to vote.

Linda Fabiani (East Kilbride) (SNP): On a point of order, Presiding Officer. Something went wrong with the voting app, and it would not work. I would have voted yes.

The Presiding Officer: Thank you, Ms Fabiani. You would have voted yes, and I will make sure that your vote is noted.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): On a point of order, Presiding Officer. I was unable to vote on amendment 39. I would have voted yes.

The Presiding Officer: You would have voted yes, Mr Doris. Thank you.

Bill Kidd (Glasgow Anniesland) (SNP): On a point of order. I would have voted yes. I had a problem with the voting app.

The Presiding Officer: You would have voted yes, Mr Kidd. That will be added.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Ballantyne, Michelle (South Scotland) (Reform)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (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)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 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)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)

Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 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)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (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) (Ind)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Balfour, Jeremy (Lothian) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Corry, Maurice (West Scotland) (Con)
 Davidson, Ruth (Edinburgh Central) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)

Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Mason, Tom (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

The Presiding Officer: The result of the division is: For 87, Against 24, Abstentions 0.

Amendment 39 agreed to.

Amendment 15 moved—[John Swinney]—and agreed to.

Amendment 40 moved—[Mark Griffin]—and agreed to.

Amendment 41 moved—[Joe FitzPatrick].

The Presiding Officer: The question is, that amendment 41 be agreed to. 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, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (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)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 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)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)

Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 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)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (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) (Ind)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Reform)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Corry, Maurice (West Scotland) (Con)
 Davidson, Ruth (Edinburgh Central) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Mason, Tom (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)

Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

The Presiding Officer: The result of the division is: For 86, Against 24, Abstentions 0.

Amendment 41 agreed to.

Section 12—Procedure for making, amending and remaking the Scheme

Amendment 16 moved—[John Swinney]—and agreed to.

Section 13—Reviewing and reporting on the Scheme

Amendments 17 to 24 moved—[John Swinney]—and agreed to.

Section 14—Child rights and wellbeing impact assessments

The Presiding Officer: Group 7 is on impact assessments. Amendment 42, in the name of Fulton MacGregor, is grouped with amendments 25 to 29.

Fulton MacGregor (Coatbridge and Chryston) (SNP): It is a huge honour to speak to my amendment 42 at this historic moment for our Parliament and our children and young people.

I welcome subsections (3A) and (3B), which were added to section 14 at stage 2, and under which

“the Scottish Ministers must prepare a child rights and wellbeing impact assessment”

in relation to decisions to restrict the delivery of in-person education to children.

The Covid-19 pandemic has brought previously unimaginable restrictions to our everyday lives, including, of course, the closure of schools for two separate significant periods. Although that has been necessary for public health reasons, we cannot underestimate the potential short-term and longer-term impacts on our young people. That is especially true when we are talking about children’s rights.

I know, and welcome, that the rights of children and young people are at the heart of decisions that the Scottish Government has taken, and continues to take, in relation to managing the impact of coronavirus on children and young people. That point is evident in the prioritisation of in-person learning as we move out of restrictions—a prioritisation for which I know many members and I are grateful.

I also welcome that the Scottish Government must publish child rights and wellbeing impact

assessments when they are required to be prepared in relation to section 14 provisions more generally. It makes sense, therefore, to provide for their publication under the section 14 provisions, which amendment 42 seeks to achieve. The amendment will ensure that section 14(3)(a) is in line with the rest of section 14 so that, in addition to preparing such impact assessments, ministers must also publish them.

I support the amendments in the name of the cabinet secretary in the group.

I move amendment 42

17:15

The Presiding Officer: I invite the cabinet secretary to speak to amendment 25 and the other amendments in the group.

John Swinney: As the minister set out during stage 2, ministers are supportive of a provision to require ministers to prepare child rights and wellbeing impact assessments in relation to decisions about school closures in the context of the Covid pandemic. The amendments that I have lodged are intended to make the provision work more effectively.

Amendments 25 and 27 make it clear that the duty that is imposed on ministers to prepare that category of child rights and wellbeing impact assessments applies only in relation to decisions that the ministers take and strategies that the ministers prepare. I am concerned that the references to school age in those provisions might be taken to mean that decisions that affect the in-person education of pupils above school age would not be in their scope, which would have the effect of excluding decisions that affect 16 and 17-year-olds from coverage. I do not imagine that to have been the intended effect of the provision; therefore, amendments 26 and 28 will make its scope clearer so that the provision covers all children at school.

I support Fulton MacGregor’s amendment 42, which will build in the requirement to publish—not just to prepare—that category of child rights and wellbeing impact assessments. I will press amendment 25 and urge members to support it, along with amendments 26 to 29 and Mr MacGregor’s amendment 42.

The Presiding Officer: Does Mr MacGregor wish to add anything?

Fulton MacGregor: I have nothing to add.

Amendment 42 agreed to.

Amendments 25 to 29 moved—[John Swinney]—and agreed to.

Section 15—Reporting duty of listed authorities

The Presiding Officer: Group 8 is on listed authorities, their functions and reporting arrangements. Amendment 43, in the name of Clare Adamson, is grouped with amendments 44, 30 and 45.

Clare Adamson (Motherwell and Wishaw) (SNP): Section 15 of the bill requires listed authorities to report on the actions that they have taken to meet the UNCRC requirements, and on what steps they have taken more widely towards the progressive realisation of children's rights. In order to drive the proactive culture change that we all want, it will be important that those reports are acted on as quickly as possible. Although listed authorities will, of course, be responsible for taking the actions that the reports identify, it will be important that ministers are aware of those reports and of their contents.

Amendments 43 and 44 will ensure that the reports from listed authorities are shared with Scottish ministers

“as soon as practicable after”

they are published, so that the Scottish Government is aware of their contents. I believe that the provisions will further support the proactive realisation of children's rights that the bill promotes.

I understand that there are some issues with revisions under the Children and Young People (Scotland) Act 2014. I was a member of the committee that dealt with that bill. There are similar reporting duties for its listed authorities but without a corresponding duty to send a copy to ministers. It seems to be obvious that it would be in everyone's interests for that to happen as a matter of course, so I am not sure why it does not. To make that provision in statute would make it clear what is expected of listed authorities.

I am keen to hear Mary Fee's arguments in support of amendment 45. I pause for a moment to commend Mary Fee for her commitment to children's rights, but also to—*[Inaudible.]*—and particularly Gypsy Travellers during her time in Parliament. I wish her well in her on-going endeavours.

It is worth noting that it will not be the first time that the Parliament has come together, nor will it be the last, to provide a statutory underpinning to guide—*[Inaudible.]*—provide a direction on how guidelines should be drafted and developed. I am happy to support Mary Fee's amendment 45, and I support the Government's amendments, which are essential but important tidying-up amendments.

I move amendment 43.

The Presiding Officer: Miss Adamson, we were struggling to hear you. Your sound was at the edge of being audible, so, if you wish to add anything in winding up, you might wish to adjust your volume.

I invite the minister to speak to amendment 30 and the other amendments in the group.

Maree Todd: Section 15 was amended at stage 2 to provide that, under the reporting duty in section 15, listed authorities are required to report not only on what actions they have taken to meet the minimum standards in the UNCRC requirements, but on what steps they have taken more widely towards progressive realisation of children's rights.

Section 15 requires listed authorities to prepare and publish reports every three years on what they have done to comply with the duty in section 6(1) of the bill, and on the actions that they have taken to better or further effect the rights of children. Listed authorities will also be required to set out and report on their plans for the next three-year period.

I welcome and support amendments 43 and 44, which will clarify the reporting cycle for the reports and ensure that the published reports will be shared with Scottish ministers. That is a small but important addition that will help to create synergy and accountability across all relevant authorities.

As I set out at stage 2, the Scottish ministers will be required to report annually on the operation of the children's rights scheme. The reports will set out a number of things, including the steps that ministers are taking and the plans that they have in order to comply with the duty in section 6(1).

The reports will also set out ministers' plans for giving better and further effect to the rights of children. The requirement to prepare and publish the reports annually will relate to all the Scottish ministers' functions, including those relating to executive agencies, such as the Scottish Prison Service.

As such, section 16(1)(ka), which includes the functions of the Scottish Prison Service in the listed authorities that will be required to report under section 16, is unnecessary. It is also at odds with the requirement on ministers to report annually under section 13. Under section 16, listed authorities are required to report only every three years. However, we understand fully the motivation behind that inclusion, which is to ensure that, in the future, the impact of imprisonment on children and on a child's rights is addressed. Such children are one of the most vulnerable groups of children in our society and, although the Prison Service and organisations such as Families Outside have made significant progress in that regard in recent years, there is

more to do to ensure that the rights of children who are affected by imprisonment can be fully and most effectively realised.

Therefore, we will set out in the explanatory notes that the effect of the bill is that the functions of executive agencies, including the Scottish Prison Service, will be covered by the children's rights scheme and the annual reports on the scheme. I have written to Families Outside, which supported the inclusion of that provision at stage 2, and I am pleased that it has confirmed that it is content with its removal and our suggested alternative approach.

I also welcome and support amendment 45. As I said earlier in support of amendment 38, it has always been the Scottish Government's intention that a range of guidance and materials would be developed in partnership to support effective implementation of children's rights and the reporting duties under section 15. Amendment 45 rightly sets out how that guidance should be prepared, who should be consulted in that process and the duties on Scottish ministers in relation to guidance. These are important matters that provide clarity in the process that is to be adopted.

I urge members to support amendments 43, 44 and 45.

Mary Fee: I thank Clare Adamson for her very kind words, and I confirm my support for all the amendments in the group.

Amendment 45 is in line with my amendment 38, which was debated in group 5, on guidance. It will ensure that there is a similar requirement on the Scottish ministers to provide guidance to support listed authorities in fulfilling their reporting requirements under section 15.

There is no doubt that making the commitments in the bill real—incorporating children's rights into service design and delivery—will be challenging. After all, we have never done it before. Therefore, people will need advice and support to help them to get it right and to understand what is expected of them under the legislation, so I welcome the Scottish Government's willingness to issue guidance to listed authorities.

It is also essential that we ensure that there is transparency in the guidance that is issued in support of implementation of the bill's provisions. By making that a requirement and by ensuring that such guidance is widely consulted on, we will ensure that there is buy-in to and support for the steps that are to be taken by listed authorities in fulfilment of children's rights.

I hope that members will support amendment 45.

Jamie Greene: I listened with great interest to the minister's response on amendment 30. We will support all the amendments in the group.

We tried to include two provisions at stage 2—one was on exercise of the Scottish ministers' powers relating to prisons and prisoners, and the other related to the Scottish Courts and Tribunals Service. I see that there is no attempt to remove the latter as a listed authority. However, the only listed authority that has a duty to report and in relation to which reference is made to the Scottish ministers is that one, and it is the only one that the Scottish ministers are seeking to remove. That is notable.

I, too, pay tribute to every charity that has campaigned on the issue and raised it with us. However, I question whether it is necessary to remove that specific reference. The argument that it is necessary based on the terms of reporting—three years versus, I think, six months—is a bit of a red herring, because there is nothing to stop ministers reporting regularly. I do not think that how the bill is drafted after stage 2 would elongate the reporting requirements on ministers.

I take on board the feedback from the organisations that have been mentioned and the point that they are comfortable with the Government's approach. This debate raises an important point, as the minister recognised, which is that application of the UNCRC will be relevant to children who get caught up in the system of dealing with offending.

I want to make the point that we added the provision for good reason at the time, and that it was supported by various external organisations. I thank the minister for her update.

The Presiding Officer: I call Clare Adamson to wind up on the group.

Clare Adamson: I am content to leave it there, Presiding Officer.

Amendment 43 agreed to.

Amendment 44 moved—[Clare Adamson]—and agreed to.

Section 16—Listed authorities

Amendment 30 moved—[Maree Todd]—and agreed to.

After section 16

Amendment 45 moved—[Mary Fee]—and agreed to.

17:30

The Presiding Officer: Group 9 is on reporting by the Scottish Parliament. Amendment 46, in the

name of Mary Fee, is the only amendment in the group.

Mary Fee: Amendment 46 would require the Scottish Parliamentary Corporate Body to publish a report outlining how the work of the Parliament has met the requirements of the bill.

Having worked closely with stakeholders, including Together Scotland, on the issue, I can say that it is of great importance to those groups. The Scottish Parliament is a human rights guarantor and should play a leading role in ensuring that human rights promises that are made to children through the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill are kept by all levels of government. Children do not have the same political or economic power as adults. It is essential that, in its role as a human rights guarantor, the Scottish Parliament pays particular attention to children's rights and ensures that children and young people are fully involved in decision making on all matters that affect them.

Children are impacted by a host of issues that range from transport policy to the environment and education. Children and young people have been at the heart of the passage of the bill through the Scottish Parliament. The Equalities and Human Rights Committee has learned a great deal from children and young people through their involvement and is keen that that learning is shared across the Parliament. It is essential that children and young people's involvement in parliamentary business and the democratic process is not limited to a narrow range of topics. The Scottish Parliament must ensure that children and young people's rights are mainstreamed into its day-to-day work and across all policy areas. Members of the Scottish Parliament should make it a priority to engage children in that endeavour.

The bill already places a range of duties on the Scottish Government and on the courts. It is only right that the Scottish Parliament should itself agree to accept duties. In requiring the Scottish Parliament to set out what it has done

“to secure better or further effect of the rights of children”,

and what more it plans to do, amendment 46 would help to secure the culture change in the Scottish Parliament that we are seeking to achieve across Scotland.

I move amendment 46.

Andy Wightman (Lothian) (Ind): I have a few comments to make on amendment 46, on behalf of the Scottish Parliamentary Corporate Body. The SPCB recognises the aim of amendment 46 to hold the Parliament to the same standard as other public authorities. However, I have a few comments on how that can best be achieved.

I note that the bill explicitly excludes the Parliament from section 6, which provides that

“It is unlawful for a public authority to act in a way which is incompatible with the UNCRC requirements.”

That, it appears to me, is not because the Parliament should not be concerned about children's rights; rather its exclusion from section 6 seems to recognise its unique status, structure and functions.

I say in passing that the next group of amendments concerns statements to the Parliament about the compatibility of bills with the UNCRC. I will not speak to that group, but the corporate body has looked at those amendments and is content with them.

Some statutory provisions that apply to other public authorities apply to the corporate body—for example, the duty to produce a British Sign Language plan, the duty to produce a Gaelic language plan and the obligations of the Freedom of Information (Scotland) Act 2002. Those duties and others fit with the role of the SPCB as an employer, as a provider of services to the Parliament and as an owner of land and buildings. In cases in which statutory duties are appropriate to its functions, it is correct that the corporate body should be held to the same standards as other public authorities. However, it is not a public authority that exists to provide services directly to the public. Its role is simply to provide the staff and the facilities to enable the Parliament to function. It has no role in defining how the Parliament or its committees should conduct their scrutiny and legislative functions. Members, not least committee conveners, would rightly be concerned should the SPCB seek to exert any direction or influence on those matters. Therefore, the duty in amendment 46 does not seem to fit particularly well with the SPCB's role.

Head (2)(a) of the amendment would make the corporate body responsible for reporting on matters that are not directly within its control. It is for the Parliament to decide its position on legislation and for individual committees to determine their own work programmes, their business and how they undertake scrutiny. It would not be consistent with the corporate body's normal functions for it to be responsible for reporting on those matters.

Head 2(b) of the amendment appears to require the corporate body to develop its own position on how the Parliament and its committees should, in future,

“secure better or further effect of the rights of children”.

It would not be appropriate for the SPCB to seek to set policy or issue guidance in the area. It has never done so, it has no statutory role to do so

and its functions and impartiality would be compromised if it did so.

Although the corporate body would be concerned about any statutory duty that does not fit with its role, I want to assure Mary Fee and all members, on behalf of the SPCB, that the corporate body is happy to commit to doing what it can to report on how the Parliament's activities promote children's rights. The Parliament has shown, in many ways, its commitment to furthering the rights of children and helping to ensure that their voices and concerns are heard, not least through its public engagement strategy. The SPCB has supported all that work and will continue to do so.

As members know, the SPCB produces an annual report, which includes details of a lot of the engagement work that the Parliament undertakes. For example, significant work has been undertaken in session 5 by the Parliament's education services and the newly established participation and communities team. That has included much closer working with schools and the Scottish Youth Parliament and hearing from a much more diverse range of younger voices when it comes to committee scrutiny of public policy and legislation. Committees have made considerable efforts to make their reports and material accessible. For example, the Equalities and Human Rights Committee's work on this bill included the production of a child-friendly report, and in projects such as the development of the Parliament's new website significant emphasis has been placed on accessibility.

The SPCB is committed to continuing to resource the Parliament's participation agenda to make it easier for the Parliament to hear more diverse voices, including those of children and young people, to inform its scrutiny work.

On behalf of the SPCB, I am happy to commit to the corporate body looking thoroughly at how the annual report can cover achievements and plans for continuous improvement when it comes to engaging with children and on children's rights. I hope that that achieves the outcome that some stakeholders rightly want to see, without amendment 46 placing a statutory duty on the SPCB that does not fit with its role and responsibilities.

Alex Cole-Hamilton: I support Mary Fee's amendment 46, which is important to children and young people and the children and young people's sector. In many ways, what is proposed represents the only way in which children and young people can hold the Parliament to account when it comes to making rights real.

I understand the concerns that Andy Wightman raised but I do not think that they are

insurmountable. This is an opportunity for us, collectively, to throw our caps over the wall and press the SPCB to make rights real, within its fabric. I urge members to support amendment 46.

John Swinney: I thank Mary Fee for explaining the purpose and effect of amendment 46.

Throughout the bill process, the Government has been clear that human rights can be fully realised in Scotland only if all institutions of the state, including the Parliament, take action to respect, protect and fulfil the rights of every member of Scottish society. That applies equally to children's rights.

I have said that I support bringing the Parliament within the provisions of the bill in some way. I have also made it clear that that is a matter not for the Scottish Government but for the Parliament itself. That is why I welcome Mary Fee's initiative in this respect.

Presiding Officer, in your letter of 27 January to the Equalities and Human Rights Committee, you said:

"there are many ways in which the Parliament already seeks to respect and advance the interests and rights of children and young people".

I agree whole-heartedly with that assessment. One of the Parliament's best features has been the willingness of parties across the chamber to include and welcome children and young people and to acknowledge, respect and celebrate their contribution to our civic life.

Presiding Officer, in your letter you went on to note:

"the Parliament is, in common with a number of public authorities, subject to more general planning and reporting duties."

I consider that amendment 46 is in that spirit and would ensure transparency in relation to the steps that the Parliament takes

"to secure better or further effect of the rights of children".

Amendment 46 recognises the Parliament's role in relation to the protection of human rights in Scotland, and, by requiring annual reporting on the Parliament, would affirm and embed its rightfully deserved reputation as a rights-respecting institution.

I am grateful to Mary Fee for lodging amendment 46. The Government will support it and I hope that members will do so too.

Mary Fee: I thank Alex Cole-Hamilton and the cabinet secretary for their positive and helpful comments. I am grateful for Andy Wightman's comments and explanation on behalf of the corporate body and for the consideration that the corporate body has given to the matter.

Throughout the evidence sessions, the committee heard repeatedly the view from stakeholders that the Parliament should be included in the bill. Through the bill, we ask of others what we are not prepared to do ourselves. Amendment 46 has attracted significant interest and, if I am being perfectly honest, I had hoped that the response from Mr Wightman would go further. I fully understand his concerns and have given them a lot of consideration, but his reassurance and explanation fall far short of what I had hoped for and would not fulfil the aims of the amendment. Mr Wightman's commitment to look thoroughly is not enough and, more important, it will not satisfy the many stakeholders who have campaigned on this specific issue. Ultimately, that is who we have a responsibility to. I will press amendment 46.

Amendment 46 agreed to.

Section 18—Statements of compatibility in relation to legislation

The Presiding Officer: Group 10 is on compatibility statements. Amendment 47, in the name of Mary Fee, is grouped with amendment 48.

Mary Fee: Amendments 47 and 48 in my name seek to ensure that all bills introduced in the Parliament—not just Government bills—meet the UNCRC requirements. Effective scrutiny of legislation is essential for protecting, respecting and fulfilling children's rights in practice. The bill already requires scrutiny of the compatibility of Scottish Government primary and secondary legislation by requiring ministers to undertake a children's rights and wellbeing impact assessment and make a statement of compatibility. At present, the bill does not make similar provision for non-Government bills.

The Scottish Government has been clear that it considers it appropriate for the Parliament itself to consider whether those requirements should apply to members' bills and other non-Government bills. Given the Scottish Parliament's role as a human rights guarantor, it is clearly appropriate for that duty to apply to all bills introduced to the Scottish Parliament and not just Government bills. My amendments would address that inconsistency and ensure effective scrutiny of all legislation introduced to the Parliament.

I move amendment 47.

John Swinney: I am grateful to Mary Fee for explaining amendment 47. The bill, on introduction, required the Scottish ministers to make a compatibility statement in relation to Scottish Government bills. Amendments 47 and 48 are complementary to that and would extend the requirement for statements of compatibility to all public bills introduced to the Scottish

Parliament. That is supportive of the ambition that children's rights are fully respected, protected and fulfilled in all legislation passed by this Parliament.

Although the bill will not require that a children's rights and wellbeing impact assessment is needed for non-Government bills in the same way as for Government bills, I believe that amendment 47 will support and encourage the use of such impact assessments in relation to non-Government bills. Adopting that practice would clearly help members to come to a view about the impact of a bill on children's rights.

That issue was not proposed to be legislated for by the Government at the outset of the introduction of the bill, for all proper reasons, which Mary Fee has recounted to the Parliament. I am grateful once again to Mary Fee for addressing the issue on the Parliament's behalf. It is important that that is done by a member who is not a member of the Government.

I support amendments 47 and 48 on the basis that they complement and strengthen the bill, and I hope that members will also support the amendments.

Mary Fee: I have no further comments. I press amendment 47.

Amendment 47 agreed to.

Amendment 48 moved—[Mary Fee]—and agreed to.

Section 19—Interpretation of legislation

17:45

The Presiding Officer: Group 11 is on legislation that sections 19 and 20 apply to. Amendment 49, in the name of Alexander Stewart, is grouped with amendments 50 and 52 to 54.

Alexander Stewart (Mid Scotland and Fife) (Con): Amendments 49 and 50 are probing amendments. They seek to provide the Scottish Government with the opportunity to explain why it believes that including acts of the UK Parliament in section 19 is within the competence of the Scottish Parliament. The effect of amendment 49 is to delete section 19(2)(a)(ii) by excising acts of the UK Parliament from the scope of section 19. Amendment 50 makes a further consequential change to section 19.

Section 19(1) provides that legislation that would be in the competence of the Scottish Parliament to make

"must be read and given effect in a way which is compatible with the UNCRC requirements."

Legislation is defined in section 19(2)(a)(i) as

"an Act of the Scottish Parliament"

and subsequently in section 19(2)(a)(ii) as “an Act of Parliament”.

There is no issue with the application of section 19(1) to acts of the Scottish Parliament. There is a similar provision in section 101(2) of the Scotland Act 1998, which states that any provision of an act of the Scottish Parliament

“is to be read as narrowly as required for it to be within competence”.

However, some may argue that there could be a challenge as to whether it is competent for the Scottish Parliament to apply the rule in section 19(1) to provisions in acts of Parliament. That is because acts of Parliament are interpreted in accordance with the Interpretation Act 1978.

Furthermore, the reference to an act of Parliament in section 19(2)(a)(ii) would apply to future as well as to past acts of Parliament. Questions may be raised in the future about section 19(2)(a)(ii) if considered with section 28(7) of the Scotland Act 1998, which provides that the UK Parliament has the power to make laws for Scotland. The UK Parliament may have a different interpretation.

I move amendment 49.

John Swinney: Amendments 49, 50 and 52 to 54 would significantly undermine the protection for children’s rights in Scotland that the bill seeks to put in place and are at odds with the Scottish Government’s ambition that the bill should provide for the highest level of protection possible for children’s rights within the powers of the Scottish Parliament. It is of fundamental importance that any incompatibilities in legislation that would be within the power of the Parliament to make can be remedied.

The amendments proposed by Mr Stewart would remove from the protections offered by sections 19 and 20 of the bill all acts of the United Kingdom Parliament that fall within the competence of the Scottish Parliament—for example, that would include all pre-devolution legislation over which competence has been transferred.

To help members to understand the significance and scope of the proposal, it would put out of the scope of the Scottish Parliament acts such as the Children (Scotland) Act 1995, the Scottish parts of the Police Act 1997, the Rehabilitation of Offenders Act 1974, the Education (Scotland) Act 1980, the Education (Scotland) Act 1996, the National Health Service (Scotland) Act 1978, the Social Work (Scotland) Act 1968, the Family Law (Scotland) Act 1985, the Children and Young Persons (Scotland) Act 1937, the Registration of Births, Deaths and Marriages (Scotland) Act 1965, the Criminal Procedure (Scotland) Act 1995 and

the Further and Higher Education (Scotland) Act 1992.

The amendments are very wide reaching and would significantly undermine the protection for children’s rights that the bill seeks to put in place.

I was somewhat perplexed when I heard Mr Stewart talking about his amendments as “probing amendments”, given that I received a letter on 4 March from the Secretary of State for Scotland in which he requested

“that the Scottish Government table an amendment that makes it clear that Westminster legislation is removed from the scope of sections 19-21.”

Members will not be surprised to hear that, in my reply of 9 March, I told the Secretary of State for Scotland that we would do no such thing. I am therefore surprised that such an approach has been marshalled as “probing amendments”, when there was nothing probing about the secretary of state’s letter of 4 March—in fact, I would describe it as menacing.

The Secretary of State for Scotland thinks that he can write menacing letters to the Deputy First Minister of Scotland to seek to exempt key pieces of legislation that are integral to this Parliament’s legislative competence. We have had a little display of how he then sends in his functionaries to do his bidding for him later. That demonstrates that a very orchestrated and sustained assault is under way on the Parliament’s powers. I am not surprised that that is being cooked up in the secretary of state’s office in—

Jamie Greene: Will the cabinet secretary give way?

John Swinney: Of course.

Jamie Greene: I make no apology for being a functionary in the chamber. Members of this place have every right to lodge amendments at stage 3. The Secretary of State for Scotland does not sit in this Parliament and is perfectly within his rights to represent the UK Government in his correspondence with the Scottish Government, which he has done. How the cabinet secretary perceives such letters and their tone, and how he replies, is up to him.

The Law Society of Scotland reflected and shared some of the valid concerns that we have raised about the interplay between provisions of the bill and UK legislation. Such concerns have been raised throughout the process—I talked about them constructively at stage 1. I said that we would approach the bill constructively, which we have done.

The cabinet secretary’s tone is unfortunate, in light of the bill’s content. We have said throughout that we would support the bill, and we will do so

today—we will talk about that in the debate on passing the bill. The cabinet secretary is giving the message that we are somehow not trying to ensure that the bill is watertight, which is unfortunate and a little demeaning.

John Swinney: I fear that I have touched a raw nerve. For the record, I very much appreciate the fact that the Conservatives have made clear their support for the bill. For completeness and to do full justice to his argument, I note that, in his letter, the Secretary of State for Scotland said:

“Protecting vulnerable children is an absolute priority for the UK Government. Across the UK the different legal protections in place for children are recognised as being amongst the strongest in the world and measures are integrated in our respective legislation.”

Those are other comments from the secretary of state’s letter.

If I did what the secretary of state requested in his letter and if we supported Mr Stewart’s amendments—probing or otherwise—we would limit the protections that are available for children and young people. That would contradict the direction of the bill, which Mr Greene and the Conservatives support.

What we have touched on and what the amendments have given me the happy opportunity to point out to Parliament and to the public is that an orchestrated attempt is under way in the UK Government to hem in the Scottish Parliament’s powers and responsibilities and the exercise of them on the Parliament’s behalf, as legislated for by the UK Parliament in the 1998 act.

I am one of just three remaining MSPs to have voted for that legislation in the House of Commons. I see that David Stewart is in the chamber; the Parliament will be a sadder place without him in the next session. My colleague Roseanna Cunningham is the other member who was a member of Parliament who voted for the 1998 act in the House of Commons. We voted for that legislation—as did the House of Commons and the House of Lords—to create a Parliament that was able to exercise in full its responsibilities in the areas of devolved competence. We are now seeing a pretty orchestrated attempt by the UK Government to interrupt that, whether through the United Kingdom Internal Market Act 2020 that my colleague Mr Russell has been involved in gentle debate on, or the actions set out to us in the letter from the Secretary of State for Scotland. Whatever the method, we are pretty clear that there is an organised threat to the powers of the Scottish Parliament—and the Scottish Government will have none of it.

I make it clear, in case there is any uncertainty in anyone’s mind, that I and the Government oppose amendments 49, 50, 52, 53 and 54. I hope

that members from across the political parties will join us in sending a strong signal that they oppose them, too, and that members are determined to protect the powers of the Scottish Parliament.

Alexander Stewart: As my colleague Jamie Greene indicated, the amendments were suggested by the Law Society of Scotland. Mr Swinney can make strong remarks about what is taking place in the UK Parliament, but the Law Society of Scotland felt that the amendments should at least be discussed and given an airing during the passage of the bill. It was appropriate for me to lodge the amendments and to listen to what has been said today.

I assure the cabinet secretary that there is no malice in the process and I am not acting at the behest of anyone from Westminster. If I have taken advice, it has been from the Law Society of Scotland, which suggested that the amendments should be made. I was more than happy to lodge them. I note the comments that the cabinet secretary has made and I take them on board. Nevertheless, it was important that the issues were aired.

I will not press amendment 49.

Amendment 49, by agreement, withdrawn.

Amendment 50 not moved.

Section 20—Strike down declarators

The Presiding Officer: Group 12 is on the role of the Lord Advocate and the Advocate General for Scotland. Amendment 51, in the name of Alexander Stewart, is grouped with amendments 55 to 59.

Alexander Stewart: Under the circumstances, I will not move any of the amendments in the group, because my intentions may be misinterpreted as meaning that I am trying to do something that I am not trying to do. The amendments in this group were also suggested to me by the Law Society of Scotland. I will not give an opportunity for such misinterpretation.

Amendments 51 to 54 not moved.

Section 22—Power to intervene in proceedings where strike down declarator or incompatibility declarator is being considered

Amendments 55 and 56 not moved.

Section 29—Direct references to Supreme Court: compatibility question arising in proceedings

Amendments 57 and 58 not moved.

Section 30—Direct references to Supreme Court: compatibility question not arising in proceedings

Amendment 59 not moved.

Section 35—Interpretation

The Presiding Officer: Group 13 is on rules of court. Amendment 31, in the name of John Swinney, is grouped with amendments 32 and 33.

Maree Todd: Amendments 31 to 33 make minor technical changes to the provision that the bill makes on rules of court. Amendment 33 adjusts section 37 to further clarify that existing powers to make rules of court may be used to make provision for the purpose of the bill. Amendment 31 removes the definition from the bill's general definitions section, where it is not needed because rules of court are only referred to in section 37. Amendment 32 is a consequential amendment as a result of that change.

I move amendment 31.

Amendment 31 agreed to.

Section 37—Rules of court

Amendments 32 and 33 moved—[Maree Todd]—and agreed to.

Section 40—Commencement

18:00

The Presiding Officer: We turn to group 14. Amendment 34, in the name of the cabinet secretary, is grouped with amendment 35.

Maree Todd: The Scottish Government has been clear about its desire for the bill's provisions to be commenced as soon as is practically possible. At stage 2, the Equalities and Human Rights Committee supported provision for commencement six months after royal assent in preference to our amendment, which would have seen commencement within 12 months. We have considered the matter carefully and concluded that we can support commencement within six months of royal assent.

As I made clear at stage 2, the Scottish Government intends that the first children's rights scheme will be available to support commencement. Accordingly, amendments 34 and 35 seek to build flexibility back into the bill to enable the Scottish ministers to commence some provisions by regulation before the rest are commenced. That will not affect the overall timetable because, under section 40(2), the other provisions will come into force six months after royal assent, but it will mean that there is flexibility in the timetable, particularly to ensure that the

practical work that will be needed to commence key provisions is undertaken swiftly. Amendments 34 and 35 will enable orderly and effective commencement of the bill's provisions and I encourage members to support them.

I move amendment 34.

Alex Cole-Hamilton: I support amendments 34 and 35. I moved the amendment at stage 2 that provided for commencement after six months rather than 12, and I congratulate the Government on lodging amendments 34 and 35 and on its ambition. Children and young people in Scotland want the rights and protections that incorporation of the United Nations Convention on the Rights of the Child will afford them yesterday. They have wanted those things for many, many years. We started talking about the subject while I was still a child, so I am really delighted by where we are today.

Concerns were raised initially about the ability of public bodies to be ready for the obligations that the bill and the incorporation of the convention will place on them. However, this has been in the offing since the early days of 2012, when we were in the foothills of the Children and Young People (Scotland) Bill. Public bodies have been preparing for it and they have been pulling together, collectively, towards this shared aim. For that reason, I do not think that we have anything to fear from pushing for earlier commencement, and I am glad that the amendments in the group will allow commencement in less than six months if that is possible.

The Presiding Officer: No other member has indicated that they wish to speak on the group. Does the minister wish to add anything by way of conclusion?

Maree Todd: No, thank you, Presiding Officer.

Amendment 34 agreed to.

Amendment 35 moved—[Maree Todd]—and agreed to.

The Presiding Officer: That ends our consideration of amendments. At this stage, as members will be aware, I am required under standing orders to decide whether, in my view, any provision of the bill relates to a protected subject matter—that is, whether it modifies the electoral system or franchise for Scottish parliamentary elections. The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill does no such thing, so it does not require a supermajority to be passed at stage 3.

There will be a short pause before we move on to the stage 3 debate on the bill. I remind all members to follow the social distancing rules. Quite a few chats are breaking out with people coming together quite closely, not wearing masks

and so on. I encourage members to wear their masks, to follow the one-way systems, to not cross in front of other members' desks and generally to follow the rules. Thank you.

Colleagues, I have rethought matters and I will suspend Parliament until 10 past 6. I apologise for not recognising the needs of others in the chamber.

18:04

Meeting suspended.

18:12

On resuming—

United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill

The Deputy Presiding Officer (Christine Grahame): The next item of business is a debate on motion S5M-24369, in the name of John Swinney, on the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill.

The Minister for Children and Young People (Maree Todd): By incorporating the United Nations Convention on the Rights of the Child directly into Scots law, we are pioneers. We are the first Administration in the United Kingdom and the first devolved legislature anywhere in the world to do so. We should all be proud of that.

The UNCRC is the most widely ratified international statement, but very few have taken the journey that Scotland has. I thank everyone who has walked with us on that journey. Our first steps involved establishing Scotland's Commissioner for Children and Young People. I thank Kathleen Marshall, Tam Baillie and Bruce Adamson for advocating for incorporation.

I also thank all the organisations that have campaigned for incorporation. That campaign was made more potent when the Scottish Alliance for Children's Rights was formed in 1996. That alliance, which is now known as Together Scotland, has been pivotal to the development of the bill. We are hugely grateful to Juliet Harris and all Together Scotland's staff and directors for their efforts.

I am very aware that many MSPs—past and present—have campaigned for children's rights, needs and interests, and have moved us on in the journey to get here. I thank them all.

This is a landmark occasion to be celebrated. During any legislative process, it is easy to lose sight of the fundamental purpose of a bill. The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill sets out the architecture that is needed to incorporate the UNCRC, the mechanics of how to do that, and the mechanisms that are needed to resolve circumstances when children's rights might not be met. That is right and proper. We had to ensure that we put in place all the measures needed to get incorporation right. It is not a simple undertaking, after all. However, we should also focus on the actual rights that we are incorporating into law and what they will mean for our children.

The bill will mean that the full range of children's rights within the powers of the Parliament will be

woven into the fabric of our law, our policy and our public life in Scotland. Incorporating article 12 will mean that children will have the right to be involved and heard in relation to the decisions that affect their lives.

Article 23 will ensure that children with disabilities have dignity, self-reliance and are able to actively participate in their community.

Article 3 will ensure that children's best interests are a primary consideration. That means we will all need to act to change things. When budget is required to support services that enable the fulfilment of children's rights, it will need to be provided. When families have unmet needs, they should no longer have to fight for change because it will be our duty to make change happen.

I want this legislation to help deliver a huge cultural shift, but let us not forget the small changes that will also make a difference to children's everyday lives, and which can send clear and unequivocal messages about what a child-centred society truly looks like.

An example is delivering on the right to play. How we have had to live during the pandemic to help suppress the virus has brought into sharp relief the importance of play for children, and the huge sacrifice that we have asked them to make to keep us all safe. I hope that the bill finally sees the "No Ball Games Allowed" signs all across Scotland replaced with "Children welcome to play here" signs.

If we are to effect the change we seek with the bill, promoting awareness of children's rights under article 42 is key. Raising awareness and understanding of children's rights will create a lasting legacy. It will mean that the children of today grow up to empower the children of tomorrow. We should make no mistake—this matters to Scotland's children. In every Scottish local authority area, thanks to UNICEF's wonderful rights respecting schools programme, tens of thousands of children have grown up learning in environments that are rights aware and that respect their rights. Through the work of Children in Scotland, the Children's Parliament and the Scottish Youth Parliament, children and young people have had their say throughout the process, and I thank every one of them for sharing their thoughts and opinions.

One of the privileges of being the children's minister is that I get to hear directly from children of all ages, and see at first hand their understanding and awareness of what rights are and why they matter. Their tenacity and passion never fail to impress and, indeed, humble me. Their commitment to advancing their own rights and the rights of others and to improving this bill has been an honour to witness and support.

How much this means to children and young people is best expressed in their own words. Abigail, a young adviser at the commissioner's office, said:

"incorporation is a way of children having their voices heard, they know that they will be listened to, and they know that they matter".

In the evidence that the Children's Parliament gave in the consultation on the bill last year, a child said:

"I think you should make children's rights law because it will keep a lot more children safe".

The bill will significantly advance children's rights across Scotland. Parliament passing the bill puts us in the vanguard as a true world leader in children's rights. It does not represent the end of the journey in making children's rights real—far from it. It is incumbent upon us all to ensure that the bill's ambitions are translated into real-life improvements that transform the lives and life chances of our children and young people.

Today we are delivering a revolution that heralds a new era for this nation. In the words of Lady Bird Johnson, the wife of US President Lyndon B Johnson, who passed into law vital civil rights:

"children are likely to live up to what you believe of them".

I believe in Scotland's children.

I move,

That the Parliament agrees that the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill be passed.

18:20

Alexander Stewart (Mid Scotland and Fife) (Con): I am delighted to open for the Scottish Conservatives in the stage 3 debate on the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill. Protecting and safeguarding the rights of our children is fundamentally important. We must not only respect and value children's contribution, but listen to their views and involve them in the decisions that directly affect them.

I pay tribute to the Equalities and Human Rights Committee, on which I sit. It undertook a huge amount of consultation to ensure that there was robust discussion and debate and that children's views were taken forward while we were going through the bill process.

The United Nations Convention on the Rights of the Child is the single most important and ratified international human rights treaty in the history of the world. It has been described as without question

“the most complete statement of children’s rights ever produced”.

That is the case. There are four key principles—non-discrimination, the best interests of the child, the right to survival and development, and the views of the child—which I am sure that we can all support and subscribe to as robust.

The UNCRC is nothing new to Scotland or the United Kingdom. As we know, the United Kingdom ratified the treaty nearly 30 years ago. The convention talks about ensuring that we are familiar with the idea that children should be understood and listened to, and it is something about which children should be educated. Teachers across schools and colleges should make sure that young people are aware of what is taking place in that process.

Many steps have been taken here in Scotland and across the UK to protect and enhance the rights of our children, but ratification of the international treaty does not automatically give it effect under domestic law. We are considering this important piece of legislation in Parliament because it is right and vitally important that we ensure that that takes place. It is clear that there is a broad consensus on that objective not only across the chamber, but across wider civic society in Scotland.

The bill takes the necessary steps to rectify that lack of enforceability and ensures that the UNCRC is incorporated into Scots law. The direct incorporation method adopted by the bill will ensure a maximalist approach, which is very much to be welcomed. Those two things combined will undoubtedly ensure that the rights afforded under the UNCRC are properly enshrined, which will enhance our domestic law to the fullest extent possible.

If the bill is to work, the rights enshrined within it must be properly enforceable. In my view, it is right that the bill ensures that public authorities that fail to comply with their UNCRC requirements under the bill could find themselves challenged in court. That could be by a judicial review in the Court of Session or by using the UNCRC requirements as evidence in court proceedings.

The role of the Children and Young People’s Commissioner Scotland as the guardian of children’s rights in Scotland is important. The commissioner must be allowed to advocate on behalf of children, give their views to public authorities and ensure that if anything goes wrong it is challenged. I believe that the provisions in the bill that allow the commissioner to bring court proceedings on behalf of a child will enhance that role.

I note that concerns were raised by the committee in its stage 1 report. I welcome the fact

that the bill was amended at stage 2 to reflect the committee’s comments, and children will now be given the opportunity to express their opinions accordingly. It is absolutely right that, in the absence of any evidence to the contrary, children should be presumed to be able to express their views on matters that directly affect their lives, and that is provided for in the bill.

It is understood that there are difficulties and technical challenges when trying to incorporate something like the UNCRC into domestic law. We took on board many of the obstacles and discussed them at stage 2. Various amendments were agreed to at stage 2 that significantly improved the bill and provided additional and necessary clarity, more of which has been put into place today.

One of our amendments, on the wording around courts’ consideration of the UNCRC, strengthened the wording by changing “may” to “must”. That change showed, once again, the strength of feeling that there has been.

It was disappointing that, at stage 3, Scottish National Party members seemed to want to remove the Scottish ministers from the list of listed authorities. Having said that, the Scottish Conservatives are happy to support the bill, as we have done at all stages. Although some issues remain, we have successfully managed to improve many aspects of the bill through our amendments. We acknowledge the work and contributions of many parties and people, not only in this chamber but outside of it.

The bill does its job of incorporating the UNCRC into Scots law. It is incredibly important that it delivers on its full potential, and protects and enhances the rights of children and young people across Scotland. I am very happy to support it today.

The Deputy Presiding Officer: I call Mary Fee to open the debate for Labour.

18:25

Mary Fee (West Scotland) (Lab): As a member of the Equalities and Human Rights Committee, I am delighted to open the debate for Scottish Labour. I would like to begin by thanking the committee clerks and the bill team for their extremely hard work on the bill. They have worked tirelessly for the past few weeks to ensure that we could reach the final stage of the bill in a shorter timeframe than we had originally anticipated. The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill is a fantastic example of what we can achieve on issues of human rights when we work together.

The evidence that we received throughout the committee sessions was insightful and informative. The bill would be nowhere near as strong without the unwavering efforts, support and advice that we received from third sector organisations and individuals. I give special thanks to Together, which has given me great advice over the past few months. As an organisation, it has a wealth of knowledge, and its work to include children in the decision-making process has been nothing short of inspiring.

This debate will be the final debate that I take part in as a member of the Scottish Parliament, and I am honoured that it is on such an important piece of legislation. The issue of children's rights is one that I have been championing for many years, and I have spent much of my time in Parliament focusing on equality and human rights, so I could not have thought of a better way to sign off.

We all have our differences of opinion in this chamber, but one thing that I am sure that we all have in common is our unwavering commitment to protecting and respecting our children with every fibre in our bodies. The bill before us allows us to do that. It builds on an ethos of putting children first in every single decision that we make. We can get more right for every child when they have specific protection through legislation.

Our children have had an incredibly difficult year, in which they have felt confused, lonely and powerless. I want to remind them that they are not alone and that they will be heard. As well as strengthening children's rights in Scotland, the bill will give children the confidence to use their rights, so that they can feel safe and respected.

The committee has worked hard to ensure that the bill is strong and robust. Every decision that we have made has been scrutinised. I am glad that we have been able to achieve cross-party support for such a crucial piece of legislation. I am grateful for the support that I received at stage 2 for my amendments, and for the on-going dialogue that I have had with the Government and stakeholders in order to lodge my amendments today. Those amendments will provide additional clarity, and will strengthen the bill.

I have worked closely with the Gypsy Traveller community, children of prisoners and transgender people during my time in Parliament, and I am satisfied that the bill, in its amended form, explicitly includes them.

The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill is a shining example of devolution at work. It is so important for us to use the powers of this Parliament. With devolved power in our hands, we can put that power in our children's hands. The incorporation of the United Nations Convention on the Rights of

the Child into Scots law is a first for the UK, and we should be rightly proud of that.

I cannot express just how important the bill is for our children. The bill may have been developed in this Parliament by adults looking to leave the world a better place than when we inherited it, but the true owners of the bill are our children and young people. In leaving this Parliament, the best parting gift that I can give is empowerment, protection and respect to all our children and young people through the passage of this monumental bill tonight.

The Deputy Presiding Officer: Thank you very much, Ms Fee. I understand that you will also close the debate for Labour, so that was your penultimate speech—well done—and you have your final speech to come.

18:31

Patrick Harvie (Glasgow) (Green): I was going to congratulate Mary Fee on her final speech, but instead I congratulate her on her penultimate speech, and I look forward to her final one. Her commitment to equalities has been consistent throughout her time in the Scottish Parliament, and she will take with her the respect of the great many people whose lives she has worked to improve while she has been a member of the Parliament.

This is a truly historic moment for Scotland, and it is fitting that passing the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill is one of the final acts of this session of Parliament—a session that included Scotland's year of young people.

As we pass the bill, it is worth reflecting for a moment on how our rights are developed and how they come to be given status in our society. The UK is an outlier by European and international democratic standards. It does not have a written constitution that sets out the basic and fundamental rights of the people. That is a result of the UK's historical development—it is what happens when a country's recent history lacks a moment of revolution or sweeping reform.

The central pillar of the UK constitutional order—the sovereignty of the UK Parliament—was established following struggles between landed elites and the Crown, not a claim of the wider population's rights. The trajectory that the current UK Government has us set on is towards the erosion of pre-existing rights, not the enhancement or deepening of rights. One timely example to mention is the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence—the Istanbul convention—which the UK has signed but still not ratified.

When the UK Government is no trusted guarantor of our basic rights, defending and improving those rights here in Scotland becomes a necessity. I welcome the fact that the historic bill that we are passing today will be followed by another: a Scottish human rights act.

Passing the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill today will give Scotland

“the most innovative and exciting children’s rights legislation in the world.”

Those are the words of Children 1st, and I very strongly agree.

The UNCRC incorporates social and civil rights side by side. It seeks to overcome the historical division between those rights that has characterised many international rights treaties in recent decades. That was an artificial division—one that has often acted to undermine protection for social rights, particularly since the development of neoliberal economics and austerity.

Even in places where social rights have a stronger basis than they do in the UK, there has been a trend towards subordinating them to economic principles. That trend must be challenged, and the fundamental importance of social rights must be affirmed as a core constitutional principle.

By transposing the social rights in the UNCRC into domestic law, Scotland can contribute to that effort. We can ensure that the courts here give due regard to those rights and develop case law around them. By enshrining them in law, we are creating a strong incentive for them to be respected sufficiently that children and young people do not need to seek redress through the legal system at all.

The Greens are glad to see that the bill in its final form continues to take a maximalist approach, thereby ensuring that the UNCRC rights are incorporated to the greatest extent possible. In so doing, it will ensure that all acts of the Scottish Parliament are compatible with UNCRC rights and will provide the courts with the power to ensure that past and future acts are compliant. It will enhance the power of the Children and Young People’s Commissioner Scotland, particularly with regard to raising proceedings in the public interest. It will also create a children’s rights scheme. That is one of the most innovative and important aspects of the bill. After all, there is little value in a right that is not known about and cannot be exercised. Given the barriers that children face to having their voices heard, that scheme will be an important tool in supporting their active participation in decisions that affect them. It will raise awareness of and promote their rights, and

will mean that their rights are considered in budgeting processes.

In considering the possible impact of the bill, we could look, for example, at last year’s Scottish Qualifications Authority assessment scandal. It is quite clear that a robust participative assessment of the impact on young people’s rights would have stopped the grading model that was used long before the results were issued. That is exactly the kind of practical application of the UNCRC that will make a real difference in future. I strongly suggest to the SQA that it follows such an approach in the consultation process that it has just launched on the question of appeals to this year’s grades.

Passing the bill will be a landmark moment in the history of our Parliament. It is the culmination of more than a decade’s work by a great many people, who can feel rightly proud of the work that they have done to bring us to this point. It will be a privilege to vote yes at decision time tonight.

18:36

Alex Cole-Hamilton (Edinburgh Western) (LD): It gives me great pride to speak in support of the bill tonight. Before I do, I want to say a word about my good friend Mary Fee. It is because of her that I know the French word for Sellotape, after I helped her fix her glasses on a committee trip to Strasbourg; that children of prisoners will now always be considered in relation to sentencing; and that Gypsy Travellers will remain in the consciousness of the Parliament for a long time after she has left it. The Parliament and this chamber will be the poorer without her.

This is an emotional day for me. I have spent much of my entire career campaigning for children’s rights, and I take a moment to recognise in particular the contributions of my friends the children’s commissioner Bruce Adamson, and Juliet Harris, who is the director of Together—an organisation that I was proud to chair—and their commitment to making this happen today. I recognise other friends such as Chloe Riddell and Mark Ballard, but also the many children who have brought us to this point, who I thank for their candour in speaking to our committee and their maturity in what they told us.

I have clashed with the Government on children’s rights—sometimes publicly—but I congratulate it today. Today, Scotland joins a more progressive and enlightened family of nations, and we should all be justifiably proud of that. We should also be proud of the fact that, in this parliamentary session, we have extended equal protection that will end the physical punishment of children and raise the age of criminal responsibility. That those things should fall in my first session in Parliament is hugely

satisfying, but we know that there is still a ways to go.

Seven years ago, I told the Education and Culture Committee on behalf of the children's voluntary sector that the most elegant solution against the international standard was to incorporate the UNCRC into Scots law. I said that until we did something like that, or built its provisions into the way in which we make policy, we would forever be behind the countries that had already incorporated the UNCRC.

We have met that test today. The incorporation of the UNCRC will ensure not just that the rights of our nation's children are respected and protected in the law of Scotland, but that public authorities are legally required to bake the consideration of those rights into all the work that they do. I am pleased that that will happen as swiftly as possible. The UK ratified the convention when I was still a child. Public authorities have seen the direction of travel from the early foothills of the Children and Young People (Scotland) Bill in 2012 and have had nearly a decade to get their houses in order—they are ready for it. Children and young people wanted this yesterday.

It is one thing to pass such a bill, and another to live it year in, year out and deliver the intent behind it. No matter how well a piece of legislation is written, it is only as good as its implementation. That is why I welcome ministers' commitment to come back and report to Parliament on the evidence of rights transgressions in our communities and public bodies. In order for the legislation to be meaningful and fulfil its potential, it must be a living document, and we must keep it under review in perpetuity.

This Parliament has a duty to improve our children's future by making sure that their rights are embedded across all policy areas, with a policy focus on direct engagement with children and young people and making real their article 12 rights. By so doing, the Scottish Parliament can build on the positive steps that were taken by our committee, and the work of many other committees, to try to involve children in the work and efforts of policy development.

The issue of children's rights is an urgent one. For every day that went by without their rights being enshrined in law, we exposed our children to many risks. I am delighted that we are now moving so swiftly towards the bill's implementation. I am grateful to colleagues across the chamber for their dedication to the bill, and for putting the needs of Scotland's children at the heart of the discussion and debate.

Nelson Mandela once said:

"There can be no keener reflection of a society's soul than the way in which it treats its children."

In the pages of the bill, we are finally reaching the measure of his test, and I will take great pride in supporting the bill tonight.

18:41

Ruth Maguire (Cunninghame South) (SNP):
Presiding Officer,

"Incorporation is a way of children having their voices heard, they know that they will be listened to, and they know that they matter. A lot of young kids feel overlooked in society as a whole, but incorporation of the UNCRC is saying 'you are here, we see you, and we're helping you out'. Having any knowledge of that is really going to do the world of good for a lot of children."

Those are the words of one of the Children and Young People's Commissioner Scotland's young advisers.

In what has been a really difficult year for everyone, but perhaps particularly for our children and young people, it is an absolute joy to be standing in our Scottish Parliament and speaking in favour of this landmark bill. I congratulate my committee colleague Mary Fee on her penultimate speech—we are even doing that differently. I commend her commitment to justice, fairness and equality. She has made a difference in her time here, and I am sure that she will be missed.

I sincerely thank the Deputy First Minister, John Swinney, and the Minister for Children and Young People, Maree Todd, for the leadership that they have shown in taking a maximalist approach to incorporation. I thank colleagues on, and clerks to, the Equalities and Human Rights Committee for their hard work and commitment, particularly those who never missed the early starts, late finishes or the Saturdays in order to ensure that the voices of children and young people were heard and acted on.

When we were planning our participation, we did not accept the term "hard to reach", and no public authority should ever describe any child or young person that way. It is incumbent on us to reach out and listen to all children. On that note, I thank the outreach team, which facilitated the events that enabled us to speak to and hear from children and young people.

My biggest thanks go to all the children and young people and their supporters who campaigned so hard for decades and then generously and openly shared their thoughts and experiences, and challenged us and helped us to improve the bill.

There are not many things in politics that command universal welcome, but almost everyone who shared their views with my committee, whether through submissions, oral evidence or participation—and whether they were academics or children and young people—had one thing in

common: overwhelming support for the bill. The reason is that, when the bill delivers in practice what it sets out to do, it will put children's rights at the very centre of public authority decision making. That will make a tangible difference to the lives of Scotland's children and young people—all Scotland's children and young people.

That consensus and shared vision does not mean that scrutiny and improvements were not required—they were, and our Parliament did its job, with extensive consultation that put the views of children and young people at the heart of what we were doing.

The best of this place is not always when highly polarised political views are being debated; it is also when we work together for a shared goal or ambition.

I am very proud of the work that has been done by my committee, the Parliament and the SNP Scottish Government in introducing the bill, scrutinising it and working together on amendments that will improve it for our children and young people. Scotland is leading the way here. With the passage of the bill, we will be another step closer to realising our shared ambition of making Scotland the very best place to grow up in.

Another young person told us:

"There is no difference in talking to a child or an adult in terms of how seriously you need to take our rights."

I will be very glad to vote for that tonight, and I commend the bill to the chamber.

18:45

Joe FitzPatrick (Dundee City West) (SNP): I am delighted that Scotland is set to become the first country in the United Kingdom to directly incorporate the UN Convention on the Rights of the Child into domestic law. It is crucial that we, as MSPs, engage with and listen to young people. The committee and the Scottish Government sought to ensure that the voices of children were heard throughout the bill process.

Earlier this year, I met virtually with Dundee's Scottish Youth Parliament representatives, and I would like to share some of their thoughts about the importance of the bill for Scotland's children. Revati Campbell, who is an MSYP for Dundee West, told me:

"A 'Human Rights Based' Approach has the fundamental principles of Participation, Accountability, Non-discrimination, Empowerment and Legality.

The UNCRC Incorporation will be instrumental in ensuring these values are upheld in all 'political architecture' concerning children and young people's rights.

Through a leading piece of legislation—that goes further than any other country—Scotland will be a beacon to the

rest of the international community on respecting and upholding the rights of children and young people.

It is crucial the UNCRC reaches those from all communities and hubs, and not just those engaging in certain environments.

Our hope is that this will have a ripple effect in the culture surrounding children and young people's rights."

Salmaan Ismail, who is an MSYP for Dundee East, told me:

"There are so many articles in the UNCRC Bill that ensure every child is protected and offered the best and most optimistic route in life, but one close to me is Article 2—the non-discrimination act—where every child must not be judged based on their skin colour, gender, religion, language, or their family background."

Lucy Angus, who is also an MSYP for Dundee East, told me:

"Full incorporation of the UNCRC is absolutely crucial for Scotland's young people."

She said:

"The COVID-19 Pandemic has created unprecedented challenges, particularly for young people, and this Bill ensures we are not put at detriment, and our rights are protected during this time, and in the future."

I also heard from Imaan Hussain, Dundee West's newest MSYP, who has just come into post this month. She told me:

"As a young 14-year-old, I think this is an important step. The law will help with the aim of the Scottish Government to protect and value the rights of children and young people in Scotland. This meets the desire for Scotland to be the best place in the world to grow up.

The Bill has a human rights approach, which is an important step as it's not just talking about it, but actual legal action which demonstrates to young people that the government values their life, liberty, equality, education, rights and most importantly their opinions.

This feels like a more instrumental change and shows the people in charge are listening ... Scotland can be an International Leader in Children's Rights. Adults can learn a lot from young people."

I am sure that members will agree with Imaan that we do, indeed, have a great deal to learn from our young people and that we must keep listening to them. I am very grateful to Imaan, Revati, Lucy and Salmaan for sharing their thoughts on the bill with me, in order that I could share them with members to ensure that the voices of young Dundonians are heard in our national Parliament.

The bill will put power into the hands of our children and young people, and it reaffirms our commitment to making Scotland the very best place in the world to grow up in.

18:49

Gillian Martin (Aberdeenshire East) (SNP): I was pleased to be a member of the Equalities and Human Rights Committee as the bill went through

Parliament. Its journey to incorporate the UN Convention on the Rights of the Child is a great example of how civic Scotland, Parliament and Government can work together in the best and most inclusive of ways.

It is fair to say that the campaigning efforts of young people and children's rights organisations across the whole of Scotland have been fundamental to getting us to this point. I pay particular tribute to the work of the Scottish Youth Parliament, which has not just campaigned for years on the necessity for the legislation but whose members have, as individuals, informed and engaged on those issues young people in their own communities throughout Scotland.

Throughout my time on the Equalities and Human Rights Committee, I have chatted to the two MSYPs in Aberdeenshire East, Shayne Omale and Finn Dixon, who are pupils at Inverurie academy and Ellon academy, respectively. Both have talked to me about how important the incorporation of the UNCRC is to them and of the work that they have been doing with their peers to ensure that children's rights are communicated and discussed as part of their everyday lives.

They, and many other young people I have spoken to, have also highlighted the particular importance of their UNCRC right to be heard and have their views taken seriously in all matters that affect them. Key to that is having knowledge of their rights, an understanding of the options that are open to them in any situation and knowledge of the making of decisions that affect them.

I was pleased to lodge some amendments at stage 2 that strengthened the requirement for child-friendly communication of reports that relate to children. I was prompted to propose those changes after attending our committee's many outreach sessions with children and young people.

In particular, I commend the care-experienced young people who spoke to me about the times in their lives when they felt that they were not made aware of their rights or were not given the information in a way that was comprehensible to them—or, indeed, at all. One care-experienced young man reflected on times in his life when he was not informed enough to ensure that his views were taken into account in decisions about where he should live. A young person who had experience of the justice system told us:

"A lot of professionals automatically assume as young people with lived experience we know about our rights when we don't."

Now is the time for every organisation to look at its processes and procedures and to ensure that children's rights are embedded, communicated and respected. I know that my committee colleague Mary Fee has done a lot of work with

the families of prisoners—in particular, on the rights of children to see their parents. In my area, local councils have reduced funding for, or have withdrawn it from, the family centre at HMP and YOI Grampian. I have been arguing for that funding to be reinstated, to allow the centre to be open at its fullest capacity, with child-friendly facilities and people who prepare children for the experience of visiting a prison providing support for families. I will again be challenging those short-sighted funding decisions, from a children's rights perspective and with the wind of UNCRC incorporation at my back.

We are about to vote to ensure, among other things, that there is a legal duty on the Scottish ministers to carry out and publish a child rights and wellbeing impact assessment on all legislation from now on. Everything that we do must be compatible with the UNCRC. It is a watershed moment for Scotland's children, and I know that many of them are watching us today.

Presiding Officer, it is a great bill. As Ruth Maguire said, this is a joyful moment. I am proud to support the bill tonight on behalf of the children of my constituency of Aberdeenshire East.

The Deputy Presiding Officer: I call Mary Fee to close for Labour. Ms Fee, this is your ultimate speech. [*Laughter.*]

18:53

Mary Fee: Thank you, Presiding Officer. I reassure you and all members that this is definitely my final contribution to a debate in the Scottish Parliament.

I will use some of my time to reflect on my 10 years as a member of the Scottish Parliament for West Scotland. It has truly been an honour and a privilege to represent the area since 2011.

My time in Parliament has aligned with many positive moments and progressive changes. In many respects, Scotland has come a long way, but there is still far more that we can do on equality and human rights. As most members will know, I have placed equalities and human rights at the core of what I have done. My ambition to create a more equal Scotland has been a driving force in my long political life. I have held close to my heart the mission of protecting the rights of underrepresented groups including the lesbian, gay, bisexual and transgender community; Gypsy Travellers; black and ethnic minorities; and the families of prisoners. I am thankful for the opportunities that have arisen to put my beliefs into action.

Of all the votes that I have cast in this chamber, the two of which I am most proud are the votes in favour of the bills that became the Marriage and

Civil Partnership (Scotland) Act 2014 and the Historical Sexual Offences (Pardons and Disregards) (Scotland) Act 2018, which promoted equality for LGBT people and tried—finally—to make amends for the horrors of the past.

I want to put on record my gratitude to the many colleagues, from all parties, who have been a source of constant support and friendship, and who have continued to motivate me to do better—not only for West Scotland but for all Scotland.

I take this opportunity to thank all the Parliament staff, especially the clerking, security and catering teams. Without the staff who assist us, the Parliament simply could not function.

The past 10 years have, without a doubt, been a journey for me, which would have been so much more difficult without my staff. I want to record my thanks to Angela, Gareth, Dan, Rory and Zoe. I can never thank them enough for their hard work and support.

Let me come back to the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill. This has been a short but consensual debate that has demonstrated the willingness of members of all parties to improve the lives of children, now and for the future. We will become the first nation in the United Kingdom to legally enforce the rights that are enshrined in the UNCRC. We have shown again that we can use the powers of this Parliament to lead. With devolved powers in our hands, we can put power into our children's hands.

The bill might have come later than I would have preferred, but as we recover from the pandemic it is timely that we protect the futures of children and young people and guarantee their rights. The committee heard from many children's groups and organisations. I am delighted that we will pass the bill today for them and for the voices that they represent.

Finally, Presiding Officer, it is my sincere hope that the next Parliament will rebuild our society to make it more fair, more equal and more protected. I want the Parliament, in the next session, to continue its work to improve outcomes for, and to end discrimination against, Gypsy Travellers and to support the families of offenders and make meaningful reforms to our criminal justice system. I would also like to see an end to the discrimination that the people of our trans community face every single day, as they just try to live their lives.

Because the focus of today's business is children's rights, I also hope that progress can be made on raising the age of criminal responsibility, so that we treat children as children and not as criminals.

Finally, and this is definitely my last finally, Presiding Officer—

The Deputy Presiding Officer: I am not timing you. Go ahead.

Mary Fee: I hope that, in the next parliamentary session, Parliament continues to work to make our society fairer, more equal and more protected and that the members who remain here are a positive example of how we can enhance equality and protect human rights.

I said in my opening remarks that the best parting gift that I can give is empowerment, protection and respect for our children, by voting for the bill. I cannot overemphasise the importance of the bill. Truly, it will be a privilege to vote for it tonight. *[Applause.]*

The Deputy Presiding Officer: Thank you very much, Ms Fee. You will be missed.

18:59

Jamie Greene (West Scotland) (Con): I am grateful for the opportunity to speak in this stage 3 debate. I start by offering my thanks to the Equalities and Human Rights Committee for steering this critical piece of legislation through our Parliament. I miss the committee a lot—we shared some great experiences and I made some friends on that committee. I get the opportunity to thank one of them, Mary Fee, for her final final speech—not her penultimate speech.

It is important that, as a Parliament, we place on record our thanks to Mary Fee and people like her. It was just last week that we heard from Iain Gray on the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill. As a relatively new member of Parliament, I have learned a great deal from other members—despite our many political differences—especially those who have been here for multiple terms. I know Mary Fee's work on transgender rights and the Gypsy Traveller community and I share many of her aims and ambitions on those matters. More specifically, the two votes that she mentioned, of which she is so proud, affect my community and people like me. I have not been able to take advantage of the legislation on civil partnerships, but maybe one day I will. Thank you for everything, Mary.

Mary Fee: I hope that I am invited. *[Laughter.]*

Jamie Greene: Thank you—I hope that that will be in the *Official Report*.

That leads me to the very essence of what we are doing here today. It was only last week that we passed the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill—a historic piece of legislation that sought to right wrongs of the past. This bill is different; this bill is about the future. It

shows the positive change that we can make if we work together. I hope that when we return from the intense campaigning and differences of opinion that face us all in the coming weeks, we will reflect on those positives.

It is important to have full cross-party support for a bill such as this. It sends a signal. Given that it will enshrine in Scots law articles that are set out in the UN Convention on the Rights of the Child, the bill is a clear example of how this Parliament can go above and beyond.

The UK has a proud tradition of championing international human rights and global conventions that goes way back, even to before this Parliament. The UK not only helped to draft the European convention on human rights but was one of the first countries to ratify it, way back in 1951.

Decades later, the UK passed the Human Rights Act 1998, which transposed European Court of Human Rights rulings into domestic law—something that many European countries are yet to do. To this day, we play a leading role—I hope that we will continue to do so—in the Council of Europe and the United Nations Economic and Social Council, which govern many of our human rights frameworks.

The UNCRC is different, though. It is different because of the relevance to devolved powers of its four key pillars—non-discrimination, the right to survival and development, the interests of the child and the views of the child. The events of the past year have shone a light on all those pillars. It is not just the framework that covers the rights of the child. It is not just a convention that we are ratifying, because the convention itself has been around for 30 years. We know that so many children, even in the developed world, are still being let down. UNICEF says:

“It is up to our generation to demand that leaders from government, business and communities fulfil their commitments and take action for child rights now, once and for all. They must commit to making sure *every child, has every right.*”

I do not disagree with anything in that, but we must recognise that just passing legislation is not an end in itself and that further efforts are needed from all of us. We cannot let this be a debate in which we pat ourselves on the back too much. Passing law is one thing; making a difference is another. It is what we do that matters, not what we say.

The decisions that we have made in the past year have been difficult ones. I have sat here on many occasions and struggled with the decisions that we have had to make, knowing the effect that they would have on young people. There has been closure of schools and nurseries, the unfortunate

delay to extension of childcare and the delays and backlogs in children’s panel hearings. There has been what we now know to be a rise in domestic abuse and violence, and a mental health crisis awaits us at the other side of the pandemic.

There has been closure of outdoor learning centres and the Scottish Qualifications Authority’s decisions on exams. There is a drugs crisis and there is the quality of our housing to consider. Those are all issues on which the Government and its agencies—some of which, I admit, are outside the control of Government—play into the lives of children. One must wonder whether any of that would have been handled differently if the bill had passed a year ago today rather than today, because we cannot and should not underestimate the substantial impact that the pandemic has had on young people, which is why the bill is so important. We know that children are not necessarily the face of the Covid pandemic, but they risk becoming its biggest victims.

As I hope has been demonstrated throughout the bill process, Conservatives will work constructively and positively with anyone in Parliament on the issue, because it is way above politics and sits outside traditional party lines. The matter is something that means a lot to us personally, which is why I support the bill.

As I said, our job does not end there; talk and action are two very different things. I am pleased to support the bill, but I hope that the next Parliament goes way beyond talk and takes more action.

19:05

The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney): It is an enormous pleasure for me to close the debate on behalf of the Scottish Government. I do not think that it will be a revelation for members to realise that not every day for me is a good day. Sometimes there are very difficult days, but today is a very very good day. It started off well with a meeting of the Cabinet—I do not always say that about meetings of the Cabinet, but it was a special meeting of the Cabinet because it was the Cabinet’s annual meeting with children and young people in Scotland.

Members of the Cabinet listened with care to the issues that were raised by the young people. They raised with us their concerns about racism in our society and went through an exercise with members of the Cabinet, from which I was horrified to find out that I was at the wrong end of the spectrum in terms of my experience of how my education was structured in relation to understanding questions of race. They talked

about the mental wellbeing issues that many young people face—colleagues across the political spectrum have talked about those issues as a consequence of Covid. They also talked about digital poverty and challenged us about our climate change agenda and what more we have to do. We heard a super idea about a plant-a-tree day, on which every one of our citizens would go and plant a tree. That would get us around 5.5 million trees in one afternoon if we could all get round to doing it.

Those are wonderful ideas, but for me the whole essence of the conversation was captured by the contribution of a young man and member of the Scottish Youth Parliament for Kilmarnock and Irvine Valley, Liam Fowley, who is on the education recovery group and who sits with us every Thursday morning making a contribution on behalf of young people on the issues of education recovery. Liam said this to the Cabinet this morning:

“Make young people part of the thought process, not an afterthought.”

That strikes me as a particularly good comment to sum up where we have reached as we edge towards the end of this very good day for Scotland and certainly for the Cabinet Secretary for Education and Skills, in comparison with other days.

That brings me to the bill that is before us. Bills start off with an initial rather tentative conversation with the bill team, in which the team largely says to ministers, “What do you want to be in this bill?” and ministers have to set out their instructions. Patrick Harvie put his finger on it when he used the word “maximalist”. That was the direction that I gave to officials at the start of the process; the bill was to be a maximalist bill and we were to do all that we could within our legislative competence to protect the rights of children and young people through the incorporation of the United Nations Convention on the Rights of the Child into Scots law, and I am glad that Patrick Harvie acknowledged that point, which has been shared across the Parliament during the debate.

The bill has undoubtedly—I said this last Thursday when I closed the debate for the Government on the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill—been strengthened by parliamentary scrutiny. I pay tribute to the Equalities and Human Rights Committee and its convener for the scrutiny of the bill that it has presided over at all levels, whether that was the detailed line-by-line scrutiny or the committee going out of its way to engage children and young people, at whatever time of the day or on Saturdays, essentially living out Liam Fowley’s point about making

“young people part of the thought process, not an afterthought.”

The bill has been strengthened as a consequence and I thank the committee for that.

I reinforce a point that I made on Thursday night. The Parliament gets a lot of criticism and stick from people who deride what goes on here, but a phenomenal amount of good and detailed work is undertaken by members of all political persuasions that enhances the law of our country and the scrutiny of particular issues that we must face.

The passage of a bill is one thing, but we then come to the point that Jamie Greene fairly raised in his summation for the Conservatives, whose support for the bill I welcome: what matters is the implementation and what the result is. If I was to apply one test to the bill, setting up the ground for future scrutiny by the Public Audit and Post-legislative Scrutiny Committee, it would be whether there is a culture change in the way in which institutions in Scotland consider the rights and perspectives of children. That will be the measure. There will be challenges as to how we document and measure that, but that will be the measure of whether the bill has been successful. Implementation is the critical next step for the bill.

The minister made a number of comments about those who have contributed to the journey to this moment. One person who has contributed phenomenally is Mary Fee, and I am glad that I have the opportunity to pay tribute to her on behalf of the Government as I conclude the debate.

Mary Fee has been a tenacious campaigner for children’s rights and for all aspects of our citizens’ equalities. She mentioned three particular themes of her activities: protecting the position of Gypsy Travellers; supporting transgender citizens; and protecting the families of prisoners. I do not say this at all disrespectfully, but if I could select three particular campaigns that are not exactly mainstream and that do not have a queue of people to lead them, it would be those three. That says everything about Mary Fee’s willingness to reach out to the individuals that society does not always do a lot to reach.

I pay tribute to Mary Fee for her 10 years of distinguished service on behalf of her constituents in the West of Scotland and, more particularly, for influencing debates about the rights of individuals, about equalities and, in this bill, about respect for children. That was where Mary Fee concluded her final speech in Parliament. I extend the warmest wishes of the Government to Mary Fee and I know that that will be supported by all members.

This journey has involved many people and it has taken the Government a long time to get to this point. We were led through the foothills of the

journey by my dear friend and colleague Michael Russell, who is sitting behind me—I cannot say that he has always been behind me over the years, but he has been behind me more often than not. Michael has been a friend, ally, colleague and confidant to me for—I am trying to do the sum in my head—more than 30 years, ever since I first declared his election to national office in the Scottish National Party by a margin of one vote in 1987.

Michael Russell is standing down at the election. I take the opportunity to pay public tribute to his enormous service to the Parliament and to my party and to recognise the contribution that he has made in many ways. He brings a literary depth to his contributions, he analyses issues and he gives wise counsel to the Parliament.

Michael was accompanied on his journey through the foothills of the bill by Aileen Campbell, who also stands down at the election. I have had the pleasure of working with Aileen as a Cabinet colleague and of representing her dear parents, who are friends and constituents of mine, in the Parliament. I pay tribute to Aileen Campbell for all that she has done to lead the debate on children's rights and I wish her well in future.

To return to the bill, much has been said about the role of stakeholders, but I want to say something about the role of UNICEF, Together and the Children and Young People's Commissioner. They have been tenacious in making the argument for the bill and they have played a constructive role in ensuring that it is as strong as it could possibly be. On behalf of the Government, I express our profound gratitude to them for their contribution.

Bills do not come about by accident. We have been supported by a fantastic bill team of civil servants, who have worked on this complex bill with diligence and energy and have engaged constructively. I thank them for that. My portfolio has had to deal with two sizeable bills over the past 10 days and I have been hugely supported by Maree Todd, Minister for Children and Young People, who has exercised exemplary leadership in the process. I am enormously grateful for all that she has done.

I am grateful to you, too, Presiding Officer, for indulging me in making a very long speech—you will be relieved to hear that I am coming to the very last part. When I get home tonight—assuming that bedtime has been avoided, again—I will be asked the question, "What did you do in Parliament today, Dad?" It will be with a source of enormous pride that I can answer that question by saying, "Well, Matthew, I, along with my colleagues, voted into law the articles of the United Nations Convention on the Rights of the Child." There is something legislatively beautiful

about incorporating the schedule to the bill into Scots law and translating into our domestic law those fabulous words, developed around the world and given to us through the United Nations, that say to us all, "This is what you should do if you want to ensure that your children have the greatest opportunities and protection in their lives."

Members of the Scottish Parliament who have laboured on this for so long should be able to vote tonight with enormous pride in what they are doing—safeguarding the interests of children in the future. We need to live up to the words that we have put into statute tonight to protect children and young people and their best interests in the years to come.

The Deputy Presiding Officer: That concludes the debate on the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill.

Motion Without Notice

19:18

The Presiding Officer (Ken Macintosh): I am minded to accept a motion without notice under rule 11.2.4 to bring forward decision time to now.

Motion moved,

That, under Rule 11.2.4, Decision Time be brought forward to 7.18 pm.—[Patrick Harvie]

Motion agreed to.

Decision Time

19:18

The Presiding Officer (Ken Macintosh): Before we move to a decision, I ask members to refresh their voting app. There is no need to re-enter the code. We will put the PIN in the BlueJeans chat function for those members who are joining us online.

Nobody has indicated any difficulty, so we will move to the question. There is only one question, but it is on a bill, so there will be a vote.

The question is, that motion S5M-24369, in the name of John Swinney, on the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill at stage 3, be agreed to. Members may cast their votes now. This will be a one-minute division.

The vote is now closed. Please let me know if you were unable to vote.

Gil Paterson (Clydebank and Milngavie) (SNP): On a point of order, Presiding Officer. I am afraid that my app would not load. I would have voted yes.

The Presiding Officer: Thank you, Mr Paterson. That is noted and your vote will be added.

Anas Sarwar (Glasgow) (Lab): On a point of order, Presiding Officer. I was not able to log into the app. I would have voted yes.

The Presiding Officer: Thank you, Mr Sarwar. Your vote will be added.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Reform)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Bowman, Bill (North East Scotland) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Cameron, Donald (Highlands and Islands) (Con)
 Campbell, Aileen (Clydesdale) (SNP)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (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)
 Davidson, Ruth (Edinburgh Central) (Con)
 Denham, Ash (Edinburgh Eastern) (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)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harper, Emma (South Scotland) (SNP)
 Harris, Alison (Central Scotland) (Con)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mason, Tom (North East Scotland) (Con)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Mitchell, Margaret (Central Scotland) (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)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Sarwar, Anas (Glasgow) (Lab)

Scott, John (Ayr) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 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)
 Wells, Annie (Glasgow) (Con)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Ind)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division on motion S5M-24369, in the name of John Swinney, on the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill at stage 3, is: For 114, Against 0, Abstentions 0.

The motion is agreed to and the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill is passed. [Applause.]

Motion agreed to,

That the Parliament agrees that the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill be passed.

The Presiding Officer: Thank you, colleagues. That concludes decision time. We will move on to members' business shortly. I remind members who are leaving the chamber to be careful to observe social distancing rules, wear their masks and follow the one-way systems.

People with Learning Disabilities (Support during Pandemic)

The Deputy Presiding Officer (Lewis Macdonald): The final item of business is a members' business debate on motion S5M-23746, in the name of Jackie Baillie, on support for people with learning disabilities during the Covid-19 pandemic. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes with concern issues relating to support for people who have learning disabilities in the COVID-19 pandemic; believes that sufficient data on infection and mortality rates of people who have learning disabilities has not been made available despite repeated calls for this to be collated and published, and given that similar data exists for England; understands that, in its recent research on general mortality rates for people who have learning disabilities, the Scottish Learning Disabilities Observatory found that people who have a learning disability die 20 years younger than their peers, and children who have a learning disability are 12 times more likely to die than their peers; understands that routine COVID-19 testing for staff who support people who have learning disabilities outwith care home settings remains unavailable; further notes concerns that it understands have been raised by the Mental Welfare Commission over a lack of clarity in guardian awareness of do-not-resuscitate forms, given further evidence from England suggesting a rise in blanket do-not-resuscitate forms for people who have learning disabilities, and notes the belief that people who have a learning disability in Dumbarton and across Scotland must be treated as a priority group in terms of the COVID-19 vaccination programme in order to support and protect this group of citizens and their family carers.

19:24

Jackie Baillie (Dumbarton) (Lab): I am grateful that my motion has made it to the chamber before Parliament rises and we enter the election period. Although we will all be robust in arguing about policies and the clash of debate will be vigorous, there are many areas on which we can agree. Concern for people with learning disabilities is definitely one of those areas.

The issues to be discussed tonight are hugely important. It is the duty of every one of us to give a voice to those who struggle to be heard, and there are few who struggle more to be heard than those living with learning disabilities.

Members will be aware that I am the convener of the cross-party group on learning disability. I work closely with organisations such as Enable Scotland and others to improve the position of those across Scotland who have learning disabilities. I am assisted in that by Joan McAlpine, who has been tenacious in her pursuit of Covid vaccinations for people with learning disabilities. I thank her for that, and for her

success in ensuring that they are included in priority group 6 for vaccination.

It is important that the voices of those with learning disabilities are heard in the chamber. The testimony of one Enable Scotland member who lives with a learning disability sums up the extent to which they have been let down during the pandemic. This is what they said:

"I feel like we have been the forgotten people of the pandemic. If it hadn't been for the online groups Enable Scotland put on, I would have had nobody."

There are as many as 175,000 people in Scotland who have learning disabilities, yet only 23,500 adults with learning disabilities are known to local authorities. That means that the majority do not receive any formal social care or support. Many who do receive support have had their care packages cut during the pandemic. It inevitably falls to family care givers to provide the vast majority of support to those with learning disabilities. It will be news to no one that the pandemic has made it almost impossible for them to provide care.

The issue of access to care was reflected in a report from the Fraser of Allander institute that was published last month, which said:

"The Covid-19 pandemic has been detrimental to the support relied upon by people with learning disabilities. Some of this has been the result of restrictions on face to face contact, and given the heightened risks that people with learning disabilities face, in many cases this was unavoidable. However, there can be no doubt about the harm this has had on people and their families."

The heightened risk that Covid-19 presents to people with learning disabilities was also highlighted in distressing data that was published by the Scottish Learning Disabilities Observatory. People in Scotland with learning disabilities are twice as likely to test positive for Covid-19 and three times as likely to die from the virus as those without a learning disability. Despite those harrowing statistics, it has proved near impossible for staff who work with people who have learning disabilities outwith care home settings to be seen as a priority for the vaccine. Staff have had to choose between withdrawing care or putting those that they care for at risk.

The past year has not only presented a serious threat to the physical health of people with learning disabilities; it has also had a huge impact on their mental wellbeing. Enable Scotland launched a wellbeing helpline during the pandemic for individuals who have a learning disability. It has taken over 500 calls to date and that number rises every week. However, beyond forensic mental health services, Scotland has no specialist therapeutic service designed to overcome the mental health challenges that the pandemic presents for people who have a learning disability.

I am sure that colleagues from across Parliament will join me in calling for more investment in mental health services, particularly specialist services for children and adults with a learning disability, as we move out of the pandemic. We spend only about 8 per cent of our health service budget on mental health services, whereas in England and Wales that figure is 11 per cent. It is clear that there is room for us to do better.

I want to touch on another issue that has caused additional fear and anxiety for people with learning disabilities and their loved ones, during what is already an extremely worrying time. In April 2020, during the first wave of the pandemic, members of the cross-party group on learning disability approached the Scottish Government with concerns about the use of “Do not resuscitate” forms. At the time, members were reassured that disability, including learning disability, alone is never a reason for the completion of a DNR form. The Scottish Government claimed that it was updating clinical guidance, yet the lived experience of people with learning disabilities and their families shows that there is still a great deal of confusion surrounding DNR guidance and protocol. It is vital that the guidance is clarified and that there is no room for confusion. The Government must urgently ramp up its reporting and monitoring of the use of such orders for people who have a learning disability, during the Covid-19 pandemic.

We need an action plan that ensures that professionals, families and—crucially—people who have a learning disability have accessible information about the guidance and what it means for them. I hope that all those issues will be considered in the course of the public inquiry into Covid and its impact on different people in our community.

I want to be clear that Covid-19 is not the start and end of the barriers that those with learning disabilities face but has merely added to the daily barriers that the community has to overcome. They experience inequality in many areas of their daily lives. The pandemic is not responsible for their struggle, but it has made a bad situation even worse.

It is the responsibility of us all to improve the day-to-day lives of those with a learning disability now and in the future. There is an opportunity for us to do that. Let us commit to the creation of a commissioner for people with learning disabilities. Let us make it our ambition that the next Parliament makes early progress to ensure that their human rights are at the centre of everything that we do.

19:32

Joan McAlpine (South Scotland) (SNP): I congratulate Jackie Baillie on securing the debate. I have enjoyed working with her on the cross-party group on learning disability and I commend her work in leading the group. I thank everyone involved in the cross-party group, including the secretariat, Enable Scotland, for the fantastic work that they do.

Since the beginning of the pandemic, I have been raising the needs of people with learning disabilities and I am pleased that progress has been made with regard to vaccination and testing. However, I want to raise the issue of testing for young people. Just today, I received a letter from the father of a 17-year-old girl with Down's syndrome, from my region, who was told to shield but has not been vaccinated. Despite repeated calls to both the helpline and her general practitioner, her dad has no information on when she will get the vaccine. People with Down's syndrome were part of the high-priority group 4. I would appreciate any guidance that the minister can offer on that.

As well as being deputy convener of the CPG, I am the legal guardian of my sister, who has Down's syndrome and who does not have the capacity to make decisions for herself. That shapes how I look at the issues, because it is the people who cannot speak up for their own needs who have been hurt most by the pandemic. People without capacity often rely on their family members, and it is important that their carers and family members are listened to.

One issue that particularly affects that group is the loss of day services, particularly building-based day services. For many of those who use the services, it is like going to work or school, but it also their community—it brings routine, stimulation, safety and friendship. Before the second lockdown, many day services across Scotland were still not operating, when pubs, schools, restaurants and sport were up and running. The replacements for the day services that were offered to people—colouring packs, chats on Zoom if they were lucky—were completely inadequate. That has had a devastating effect on people. I endorse what the briefing from the Royal College of Psychiatrists in Scotland says about the need for better mental health services that are designed for people with learning disabilities as we come out of the pandemic.

Families of learning disabled people who use day services in local authority areas around Scotland have asked me where the day service workers went, particularly if the services were run by local authorities. Many such workers have been

asked to stay at home or have been redeployed to deliver other council services.

I know of a supported living facility that houses nine people, most of whom went to a day centre about four times a week. That service has been absent for a year; the replacement service offers about four hours a week, if people are lucky. No extra resource has been provided to that supported living facility, and that situation is replicated around Scotland.

I have made the point before that many parents of such people feel that a national care service in which local authorities control services for learning disabled people will not work. I have spoken to third sector workers who point out that the services that they have offered learning disabled people during lockdown—particularly when it was eased last summer—have been far more creative and imaginative, whereas councils have failed to come up with alternatives to the closed adult resource services.

In our previous debate on the subject, the minister talked about the Scottish Government working towards a transformation plan. She said in closing that she was developing it in partnership with the Convention of Scottish Local Authorities and that it would take a human rights-based approach. That will concern some families who are in despair at the loss of day services, because they are concerned that council social work departments will use the opportunity to further destroy such services and particularly building-based day services. The families' experience is that the redesign of services means the destruction of day services, which are not fashionable.

I will quote one typical parent from East Kilbride, who is the father of a woman in her 30s. She absolutely loved attending the Murray Owen centre, which he believes is under threat. He said:

"I know there are people in positions of power and influence who would in effect close the day centre model to our learning disabled community. A senior social worker actually said to me at a review meeting 12 years ago, when we strove to increase our daughter's package from two days to four, 'Is that all you want for her—to be stuck in a day centre?' We were horrified by her question, which was asked in front of members of staff who'd transformed our daughter from being a shrinking violet with zero confidence into the confident, sociable, happy and far more able young woman she is today. Such offence and disrespect towards us and towards the staff of the centre necessitated a firm rebuke."

I hope that, in looking at future services for young and middle-aged adults who attend day services and building-based day services, we will listen to all groups, including carers. I appreciate the fact that the minister is consulting People First (Scotland) and other organisations that allow people to speak for themselves, but the needs of

people with mild disabilities, whose focus is—understandably—on getting into work, taking an independent approach and achieving total equality are very different from those of people with more severe disabilities.

It is important to include everybody. Self-directed support is great for some people but not for everyone. For the people who have the greatest needs, there is not the breadth of facilities to purchase through self-directed support. I hope that the minister will keep that in mind in her discussions about the future of services.

19:39

Jeremy Balfour (Lothian) (Con): I thank Jackie Baillie for securing the debate. I acknowledge the hard work that she has done as the convener of the cross-party group on learning disability to raise many such issues, along with Joan McAlpine as the deputy convener. It has been my privilege to be a member of that group and to watch the work that has been done.

It is an important debate that we are having this evening, and, in the time before me, I will make three brief points, which have been made by others and, I am sure, will be made by others still as we go on in the debate, but it is important that they are heard and that we respond to them collectively as a Parliament.

I thank Enable Scotland and others for providing briefing papers for tonight's debate. As Enable Scotland points out, 31 per cent of people with learning difficulties are looked after by a family carer, and, during this crisis, those families' hours of support have been cut. Perhaps that was understandable initially, but there is a big concern that the lost hours will never be brought back or will be used in a different way. It is vital that all parties commit to making sure that those hours of care within a family situation are restored as soon as they can be. Families have been put under immense pressure over the past 12 months, and caring for someone adds to that pressure. That should be recognised, and local authorities and the Scottish Government need to make sure that help is available going forward.

The second issue that I will talk about is the support that people have within the community. As Joan McAlpine pointed out towards the end of her speech, there is a concern in her constituency—as there is in my region—that some of the community projects that people have been going to for many years are going to be cut or got rid of completely. There is a view among some people that those community centres and places of work and leisure are no longer appropriate and that all care should take place within the home or in other areas of the community. Clearly, there needs to be a mixed

economy, but, having spoken to a number of third sector charities in the Lothian region, I am genuinely concerned that those centres are to be closed or that their funding is to be cut in such a way that they will no longer be viable. I have spoken to people who have different learning difficulties, and that is their community—it is often their workplace, the place where they get support and the only place where they can go during the week. To close those places down would be short-sighted and would affect the most vulnerable in our society. I hope that COSLA, the Scottish Government and all local authorities will carefully consider the decisions that they make over the next few years.

Finally, in this pandemic, the area that has caused me most concern for those with learning difficulties has been some doctors' use of "do not resuscitate" orders, which I have come across. I understand that the Scottish Government wants to clarify the situation and make sure that the appropriate guidelines are in place, and I hope that, whatever inquiry takes place afterwards, that will be one of the key issues. We cannot have families worried about what is going to happen to their loved ones if they go into hospital. We cannot go back to the situation that, unfortunately, has occurred in the past 12 months, whereby a doctor thinks that they know best and there is no consultation with family members. I am sure that, across different parties, there is consensus on that, but we must work together to make sure that doctors and others in the medical profession understand the guidelines and that they follow them closely.

I thank Jackie Baillie not only for bringing forward the debate tonight, but for all the work that she and her cross-party group have done in the past five years.

The Deputy Presiding Officer: I call Shona Robison.

Shona Robison (Dundee City East) (SNP): [*Inaudible.*]

The Deputy Presiding Officer: We are not hearing you, Ms Robison. Will you try again?

Shona Robison: [*Inaudible.*]

The Deputy Presiding Officer: I am afraid that we are still not hearing you, so I will call Maurice Corry and then come back to you in a couple of minutes.

19:45

Maurice Corry (West Scotland) (Con): Thank you very much for allowing me to speak in the debate, Presiding Officer.

I thank Jackie Baillie for her unstinting support for the subject of this debate and for the learning disability sector. I know that she does an enormous amount of work, and I commend her for that.

I am, luckily, a member of the cross-party group on dyslexia. There are similar characteristics in that area, and I have a deep interest in the subject.

I am really concerned that local authorities and education authorities around Scotland do not understand the need for learning disability support in further and higher education. Cases have been reported to me in which learning support and disability support teachers or lecturers have not been replaced when they have retired. That is a real concern, and I hope that the minister will pick up on that.

When I visited prisons as the shadow spokesman for community safety, I saw the amount of rehabilitation, learning support and learning disabilities work that was being done to help prisoners. Sadly, a high percentage of people in prison suffer from learning disabilities and have not received support for that in primary or secondary education. We also have an issue in further and higher education in Scotland that I want to bring to attention in this debate. I hope that the minister will pick it up.

In concluding, I thank Jackie Baillie for bringing this members' business debate to Parliament. The issue is very important. We often miss talent that is out there, but there can be a little support, and parents can be helped to understand how they can support their children and their family. However, they also need to be supported by the authorities in Scotland, and I commend that to the minister.

19:47

Shona Robison (Dundee City East) (SNP): Can you hear me now, Presiding Officer?

The Deputy Presiding Officer: Yes, we can hear you loud and clear.

Shona Robison: I thank Jackie Baillie for bringing the debate to Parliament. The motion raises a number of important issues.

We have all been affected by Covid-19, but, as others have said, it is important to recognise that some will have been affected more than others. Research by the Fraser of Allander institute noted that

"people with learning disabilities are far more likely to suffer with underlying health conditions and multiple comorbidities, which are risk factors for the severe health outcomes associated with COVID-19."

The institute also noted that, given that information, it is safe to assume that those who suffer from learning disabilities will have been adversely impacted by the pandemic.

The Government has taken—and is taking—a number of welcome steps to address that and other concerns. Only last week, the chief medical officer confirmed the First Minister's commitment that people with mild or moderate learning disabilities would be vaccinated as part of priority group 6, whereas that group previously included only individuals with cerebral palsy, severe or profound learning disabilities or Down's syndrome. The inclusion of those with mild or moderate learning disabilities is certainly welcome.

The First Minister and the chief medical officer have also made it clear that nobody in any circumstances should be pushed into signing "do not resuscitate" forms. That is very important, and Jackie Baillie was right to raise concerns about that.

Today, the Scottish Government published its research report entitled "COVID-19 and Disabled People in Scotland—Health, Social and Economic Harms", which looks at Covid-19 mortality rates and people with learning disabilities. The Scottish Learning Disabilities Observatory research that is quoted in the report shows that, overall, people in the learning disabilities population are more than three times more likely to die of Covid-19 than people in the general population.

In response to the report's findings, the Government has committed to publishing, in March, data on Covid-19 deaths in Scotland by disability status. Perhaps the minister will use the opportunity that today's debate provides to update us on that welcome commitment and to talk about steps that the Government is taking to protect people with learning disabilities from Covid-19 and the associated impacts on their lives. The steps that have been taken so far to recognise and respond to the concerns of people with learning disabilities have been welcomed across the board and demonstrate a sincere determination to do everything possible to understand and limit the adverse effects of the pandemic on our most vulnerable groups.

That is not to say that we cannot do more. The Scottish Government has said that it will hold an inquiry into how it dealt with the pandemic, to learn lessons and to inform how it reacts to future public health emergencies. I urge the Government, in its inquiry, to listen to the voices of groups and individuals who represent the concerns of people with learning disabilities and to put those voices at the heart of any future strategy. I understand that many groups that represent people with learning disabilities have concerns about not just the direct health impact but the impact of emergency

legislation on people's human rights, the reduction in outside support and the financial consequences of the pandemic. I urge them to make their voices heard in a future inquiry.

I hope that a clearer road map out of the current situation is emerging as a result of the First Minister's announcements today, so that we can all look to the future with renewed optimism.

19:51

The Minister for Mental Health (Clare Haughey): I thank Jackie Baillie for providing us with a further opportunity, following last week's members' business debate, to discuss the experiences of people with learning disabilities during the pandemic.

I am acutely aware of the pandemic's impact on people with learning disabilities. Our regular meetings with key charities and People First (Scotland) have allowed us to respond quickly and provide additional support and funding. For example, we provided £56,000 to a range of learning disability organisations to help to reduce social isolation in winter, £115,000 to the Profound and Multiple Impairment Service—PAMIS—and Down's Syndrome Scotland to support unpaid carers and £30,000 to Down's Syndrome Scotland and Enable to support the siblings and parents of people with Down's syndrome and to provide vaccination support for people with learning disabilities. I thank the organisations with which we are working for their flexibility and dedication.

In her motion, Jackie Baillie mentioned the need for Covid-specific

"data on infection and mortality rates of people who have learning disabilities".

On 4 February, we announced that the Scottish Learning Disabilities Observatory had published a high-level summary of its Covid data. A pre-print of the full report was made available on 9 February. The data showed that people with learning disabilities are more than three times more likely to die from Covid-19 than people who have no learning disability.

Any death is regrettable, as it is the loss of a unique and irreplaceable individual, who is mourned by many. We have agreed with the Scottish Learning Disabilities Observatory that it should continue to collect and analyse data for the duration of the pandemic.

Ms Baillie's motion also mentions the wider research that the Scottish Government commissioned from the observatory last year on the health of children and adults with learning disabilities, which confirmed that there is still a 20-year disparity in life expectancy for adults with

learning disabilities, many of whom die in their early 50s, often due to preventable causes.

For children, the position is more complicated and further work is required. Last year, the observatory hosted a successful round-table discussion with leading clinicians to explore the evidence and agree actions. A round-table on adults will take place next month.

Under our proposed new plan for learning disabilities and autism, a priority is to make further progress on health outcomes. There is no single solution. It will take a range of co-ordinated actions, including further training of the health and social care workforce and work with primary care on annual health checks. The latter is currently being piloted in Aberdeen, and is led by learning disability nurses who work with the local practice.

We are determined to build support to tackle health inequalities as a fundamental human right. That brings me to the concerns regarding the awareness and use of “Do not resuscitate” forms for people with a learning disability, as mentioned by several participants in the debate. I make it absolutely clear that the Scottish Government values the lives of people with a learning disability, as we do any other life. Covid-19 has brought no change to our advice on the use of “Do not attempt cardiopulmonary resuscitation” forms. A learning disability should never be a sole reason for considering whether someone would benefit from CPR. Our document, “COVID-19 guidance: ethical advice and support framework”, which was published on 29 July 2020, emphasises that point and makes clear that health conditions or disabilities that are unrelated to a person’s chance of benefiting from treatment must not be part of a clinician’s decision making regarding access to treatment.

The motion picks up on the issue of prioritising vaccinations for people with a learning disability, and routine Covid testing for staff who are supporting people outwith care home settings. On vaccinations, members are now aware that, on 22 February, the First Minister announced that, in Scotland, in consultation with the chief medical officer, we will vaccinate everyone with a learning disability in group 6. That is currently taking place. We have written to national health service boards and health and social care partnerships to underline the key role of learning disability nurses in that programme.

On staff testing outwith care homes, we have made significant progress. We will soon be expanding the availability of Covid-19 testing to front-line staff in learning disability settings and a range of other settings.

In the debate, both Shona Robison and Jackie Baillie mentioned the Fraser of Allander institute

report on employment opportunities for people with learning disabilities, which was published yesterday. The members may be interested to know that, last week, I met Jamie Hepburn, the Minister for Business, Fair Work and Skills, on that very issue. I asked for a focus on improvement in employment outcomes for people with learning disabilities, improvement in data collection and capacity building with employers. I assure members in the chamber that I am committed to working across ministerial portfolios to improve life chances and employment opportunities for people with learning disabilities.

Joan McAlpine spoke about a concern that has been raised with her by a constituent. The Scottish Government has funded Down’s Syndrome Scotland to support families with shielding and vaccination queries; however, if Ms McAlpine wants to write to me regarding the specific details of her constituent, I will certainly endeavour to help her.

There was also mention of the commissioner for learning disability and autism. The towards transformation plan that the Scottish Government is working on with the Convention of Scottish Local Authorities will explore further the proposals for a commission or commissioner to protect people’s rights. Over recent weeks, I have met the three key organisations that have called for a commissioner. Today, I met autistic people’s organisations and individuals with learning disability and autism to discuss the issue, and we will continue those conversations.

As I have just referenced, we have been working with COSLA on the towards transformation plan, which pulls together our learning from the experiences of the pandemic and the input of key stakeholders, autistic people and people with learning disabilities. The plan takes a human rights approach. We do not yet know the full legacy and impact of the pandemic, but we are able to use what we know now to take some priority actions. Those priorities include improving physical and mental health; progressing the Morgan report and action plan for additional support needs in schools; a review of supported employment; and, following the publication in February of the “Independent Review of Adult Social Care”, our announcement about a new community living change fund of £20 million, which will deliver a redesign of services for people with a learning disability.

I welcome the publication of the report of the human rights task force. Its recommendations will result in a world-leading framework that, for the first time in Scotland, brings together internationally recognised human rights in one place.

As discussed last week, we have committed to explore further the proposals around a commission or commissioner to help to protect people's rights. This morning, I had a valuable experience listening to people with lived experience, which will certainly play into our thinking as the Scottish Government. Councillor Stuart Currie from COSLA was also in attendance at the meeting.

I thank Jackie Baillie for the motion, and for the opportunity to have the debate. I also thank all members across the chamber for their contributions.

The Deputy Presiding Officer: Thank you. That concludes the debate on support for people with learning disabilities during the Covid-19 pandemic.

Meeting closed at 20:00.

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

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