



OFFICIAL REPORT  
AITHISG OIFIGEIL

# Meeting of the Parliament (Hybrid)

Thursday 12 May 2022

Session 6



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# Scottish Parliament

Thursday 12 May 2022

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

## General Question Time

**The Presiding Officer (Alison Johnstone):** Good morning. The first item of business is general question time. In order to get in as many members as possible, I would appreciate short and succinct questions, and answers to match.

### Ferries (Procurement)

1. **Daniel Johnson (Edinburgh Southern) (Lab):** To ask the Scottish Government what lessons have been learned regarding the procurement of new ferries. (S6O-01078)

**The Minister for Transport (Jenny Gilruth):** Transport Scotland works closely with Caledonian Maritime Assets Ltd in relation to the procurement of new ferries and on lessons learned from previous processes. The recent report by Audit Scotland noted that, since the 801 and 802 project, a number of improvements have already been made, including CMAL undertaking additional risk assessments, enhanced financial diligence on preferred bidders and the employment of additional independent technical and commercial support.

**Daniel Johnson:** The problem with the email that was published yesterday is that the Scottish ministers are asking us to accept that a one-line email that simply alludes to a conversation with the Deputy First Minister is sufficient for the Government to undertake a contract that is worth the best part of £100 million, with, as it turns out, hundreds of millions of pounds of liabilities further to that. Yesterday, Audit Scotland's statement made it clear that that is not sufficient documentary evidence for the decision and, last week, in relation to the decision making on the contract, the permanent secretary accepted that there was a question whether the law had been complied with.

To learn lessons, one must accept the mistakes that have been made. Will the minister accept Audit Scotland's position of last night that the email is "insufficient documentary evidence" of the decision? Does she accept the permanent secretary's position that there is a question whether there has been a breach of the law? If there is a question about a possible breach of the law, will ministers now refer themselves to the relevant authorities so that that can be investigated?

**Jenny Gilruth:** In Daniel Johnson's question, he speaks of one email signing off the procurement of ferries. That is how Government works; it is how decisions are signed off by ministers on a daily basis. That is the job and how it is processed.

On the lessons that have been learned—

**Stephen Kerr (Central Scotland) (Con):** Outrageous! That is not how Government works.

**The Presiding Officer:** Ms Gilruth, will you just give me a moment? Members, we will hear the minister's response.

**Jenny Gilruth:** First, CMAL conducted the procurement process in its capacity as the procuring authority. It then awarded the contract to Ferguson Marine Engineering Ltd and signed it off, following ministerial approval, as was outlined to the Parliament yesterday. It was signed off by the then Minister for Transport and Islands.

On Daniel Johnson's substantive question, we have already confirmed to members that we will look at a formal lessons-learned exercise on the completion of hulls 801 and 802. The Scottish Government, Transport Scotland and CMAL have already accepted all the recommendations of the Audit Scotland report. CMAL and Transport Scotland have already confirmed that, in future, all major vessel procurements will require a full refund guarantee to be in place. As Audit Scotland has reported, CMAL has redesigned its tender process so that it will carry out additional risk assessments on all bidders, to undertake enhanced financial diligence, as I have previously stated. That will include financial monitoring by an independent accountancy firm before and after the contract award.

**Graham Simpson (Central Scotland) (Con):** It sounds as though there have been no lessons learned. I have been nagging the minister for weeks to publish the project Neptune report. If she published it, we could start to have a conversation about how we procure ferries. When will she publish it? There is no barrier to that now, so she could do it next week.

**Jenny Gilruth:** Mr Simpson knows that I have already given an assurance to the Parliament, and directly to him, that I will publish the project Neptune report. He will understand that some of the content of the project Neptune report was impacted by the purdah restrictions for the local government elections, but I recognise the need for transparency on this and I am liaising with officials about publishing the report as quickly as possible. Indeed, I believe that, only last night, Mr Simpson made direct representations on the matter to the director of ferries at Transport Scotland.

For the bodies themselves, I will not set out the detail of that today—not in an answer during general question time—but it is essential that we have transparency on that. I recognise the need for that and I have already given Mr Simpson an undertaking on the publication of the project Neptune report.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** It is clear that the yard won contracts to build three other vessels as well as the 801 and 802. Does the minister agree that the recent reports on the owner of the floating barge indicates that there were issues at the yard that affected public contracts, and put the yard into liquidation, so the nationalisation of the yard was the only way to create a business that was fit to win future public and private contracts?

**Jenny Gilruth:** Yes, I agree with Mr McMillan's observations. We have set out two very clear priorities for the yard's management. Those are to finish building the two ferries that are under construction, and to get the yard into shape so that it can compete for new work. That is absolutely vital. Although any decisions about pursuing future vessel contracts, whether they be in the public or private sector, are for the yard itself, I know that Ferguson Marine is actively pursuing a range of different opportunities and ministers will support the yard in any way that we can to help to secure those opportunities.

**Willie Rennie (North East Fife) (LD):** I think that the minister does not realise that she has made the situation a whole lot worse. She might be satisfied with one-line emails signing off on hundreds of millions of pounds of taxpayers' money, but Audit Scotland is not, and it said so last night. We need a proper public inquiry into what has happened. We need the Government to refer itself to the authorities, because there is now a question about state aid, as the permanent secretary made clear last week. When is the minister going to wake up and realise the mess that she is in?

**Jenny Gilruth:** I am not sure that there was necessarily a question in what Mr Rennie said. As I have already explained, the Auditor General welcomed the evidence that was given to the Parliament previously. He said:

"We are pleased that CMAL has acknowledged some of our recommendations on the adequacy of the contract and the need for milestone payments to be reviewed to ensure that they are more closely aligned with quality and progress".—[*Official Report, Public Audit Committee*, 21 April 2022; c 39.]

CMAL and Transport Scotland have already agreed that all major future vessel procurements will require a full builder's refund guarantee to be in place.

## Community Hospitals

**2. Murdo Fraser (Mid Scotland and Fife) (Con):** To ask the Scottish Government what role it considers community hospitals will have in the delivery of national health service services in the future. (S6O-01079)

**The Cabinet Secretary for Health and Social Care (Humza Yousaf):** Community hospitals form an integral part of local healthcare delivery systems. I was delighted to visit Falkirk community hospital this morning. Community hospitals help to provide personalised, holistic and patient-centred care closer to people's homes. They can provide a wide range of services, including non-acute in-patient services, particularly post-acute geriatric care, rehabilitation services and palliative care. They have a potential part to play in facilitating service integration locally, and they often act as a locale for the development of a single point of access to integrated services.

**Murdo Fraser:** In Perthshire, there are community hospitals in Blairgowrie, Crieff and Pitlochry. They have all seen a reduction in services in the past number of years, and the process was accelerated during the Covid pandemic. There are now indications that some of the services that were removed during the Covid pandemic, such as minor injuries units with open access, will not be reinstated. That process is being gone through without any consultation with the local communities. Can we have an assurance from the cabinet secretary that local communities will be fully engaged and consulted before decisions are taken about the future of those services?

**Humza Yousaf:** Murdo Fraser raises an important point and I agree with him that, when decisions are made, whether it be by the local health board or the local health and social care partnership, they should be made in conjunction with members of the public.

Mr Fraser has raised a number of issues to do with Pitlochry community hospital, Blairgowrie and some of the minor injuries units. I have detailed information on each of those issues. If there are particular concerns or specific issues about the region that he represents, I would be more than happy to raise them with the local health board and health and social care partnership.

**Martin Whitfield (South Scotland) (Lab):** The cabinet secretary will be aware of the Edington cottage hospital in East Lothian within South Scotland, and the outstanding invitation from the broad community group to discuss the current situation with him. Last night, we heard that it will be more than two months before NHS Lothian is in a position to make a decision about staffing for the reopening of the hospital. What does the cabinet

secretary say about that on-going delay until after the NHS is removed from the crisis that was occasioned by Covid?

**Humza Yousaf:** I take issue with some of the premises of the member's question. First, he knows that I have met the community group as he was on that call. I have also met MSPs and we have had a debate in the Parliament about the Edington cottage hospital, so I am well versed in the issues.

The second point that I take issue with is his suggestion that the national health service is suddenly no longer under significant pressure. That is not the case. I visit hospitals and community services on a very regular basis—indeed, I have just come back from Falkirk community hospital—and I know that our NHS still faces extremely significant challenges.

My understanding is that the decision on the Edington hospital continues to be reviewed and monitored regularly by NHS Lothian's gold command. I would expect it to continue its engagement with MSPs and local community groups. I am sure that Mr Whitfield will be fully aware of the fact, and will agree, that the NHS is still under extreme pressure. Therefore, it is only right that such decisions are kept under review.

### Infrastructure Investment (South of Scotland)

**3. Finlay Carson (Galloway and West Dumfries) (Con):** To ask the Scottish Government whether it will provide an update on infrastructure investment in the south of Scotland. (S6O-01080)

**The Minister for Transport (Jenny Gilruth):** The second strategic transport projects review includes plans for future transport investment. For the south-west specifically, it recommends improvements to the A75 and A77, including bypassing the villages of Crocketford and Springholm and upgrading or relocating Stranraer rail station.

Recent investment includes investment in the Maybole bypass and investment in two new rail stations, at Reston and East Linton. Other regional investment in infrastructure extends to investment in affordable housing, superfast broadband, active travel and new schools, as well as investment through growth and city region deals.

**Finlay Carson:** Exactly six months ago, in this chamber, the First Minister and the then Minister for Transport, Graeme Dey, promised to engage with the United Kingdom Government on an upgrade to the A75, which is often referred to as "the goat track", after it was singled out in the union connectivity review as the trunk road that was in most need of upgrade in the whole of the UK.

Freight companies are now threatening to move their businesses away from Cairnryan, which would be a devastating blow to the economy of the south of Scotland. Stena Line, which operates a ferry service from Cairnryan, has also appealed to the First Minister to act immediately and make the A75 and A77 a priority.

However, I am told that, to date, no meeting has been held—indeed, a date for such a meeting has not even been organised—despite requests being made by the UK Government.

Given the broken promises—

**The Presiding Officer:** Can we have a question, please, Mr Carson?

**Finlay Carson:** —can the Scottish National Party stop dragging its heels and engage with the UK Government to act much faster?

**Jenny Gilruth:** For the benefit of Mr Carson's awareness, I can inform him that I met representatives of Stena Line on 29 April. That was a really positive meeting; it was also an opportunity to hear directly from them about their views on the need for improvements on both routes. That was the latest in a series of meetings that have taken place between ministers and ferry operators over a number of years.

In response to Mr Carson's substantive question about engagement with the UK Government on the issue, as he will be aware, the union connectivity review claims to offer a level of funding support for the A75. We await the UK Government's response to that. Despite being frozen out of that process, and despite the fact that transport is devolved to the Scottish Parliament, I am quite prepared to discuss the matter with the UK Government. However, I will need to receive an assurance that any such funding would be additional and would not be top sliced by the UK Government, and I am sure that Mr Carson, as a proud member of this Parliament, would agree.

### Ukrainian Refugees (Glasgow)

**4. John Mason (Glasgow Shettleston) (SNP):** To ask the Scottish Government how many Ukrainian refugees have arrived in Glasgow. (S6O-01081)

**The Minister for Culture, Europe and International Development and Minister with special responsibility for Refugees from Ukraine (Neil Gray):** The most recent data on visas and arrivals, which is published by the United Kingdom Government, shows that, as of 10 May, a total of 7,684 visas had been issued to people from Ukraine naming a Scottish sponsor, including 4,982 naming the Scottish Government

as the sponsor under the Ukraine sponsorship scheme.

As of 10 May, 180 of those visas had been issued to postcodes within the Glasgow City Council authority, with 88 arrivals in the Glasgow city area having been reported. The total number of arrivals under the Ukraine sponsorship scheme for Scotland was reported at 2,126, 855 of whom had named the Scottish Government as their sponsor, with 1,271 naming a private sponsor.

**John Mason:** Can the minister give us an update on the welcome hub at Glasgow airport, the council's resettlement team and the provision of the £200 resettlement grant? Some people have had difficulty in getting that £200.

**Neil Gray:** I thank John Mason for giving me the opportunity to set out the position in detail. Nationally, more than 600 people have been triaged at Scotland's welcome hubs. Glasgow airport's hub has triaged more than 120 people.

Welcome hubs and the support that they offer have been designed at pace in a constantly evolving environment, and the signage at Glasgow airport has been improved to ensure that arrivals can locate the welcome desk, where they will be directed to the welcome hub or given advice. I am grateful to our local authorities and third sector partners for making that possible.

The UK Government is responsible for funding the Ukraine sponsor schemes. We continue to seek clarity from the UK Government on funding mechanisms and reporting arrangements. In the meantime, local authorities are making up-front emergency payments and, where needed, we have worked with the Convention of Scottish Local Authorities to reassure councils that funding for the scheme will be provided by the UK Government.

### **Ukrainian Refugees (Community Integration)**

**5. Bill Kidd (Glasgow Anniesland) (SNP):** To ask the Scottish Government what plans are in place to support community integration for Ukrainian refugees resettling in Scotland. (S6O-01082)

**The Minister for Culture, Europe and International Development and Minister with special responsibility for Refugees from Ukraine (Neil Gray):** We are working alongside local authorities and other partners to help displaced people from Ukraine integrate into communities, supporting them to settle here. Local authority caseworkers are in place to enable access to services, including healthcare, education, and employment and social security advice.

Our new Scots strategy provides a clear framework for integration and assists partners to make the best use of resources and expertise by promoting partnership approaches, joined-up working and early intervention. We have also provided £1.4 million to the Scottish Refugee Council for the expansion of its refugee integration service, as well as funding JustRight Scotland to provide free and confidential legal advice to Ukrainians seeking safety in Scotland.

**Bill Kidd:** Government guidance states that children who are unaccompanied, or who are accompanied by adults who are not their legal guardians, are the most vulnerable group of refugees arriving in Scotland. Will the Government develop plans to ensure that proactive efforts are made to reunite unaccompanied children with their parents, should such situations arise in Scotland? Will it also ensure that those who work with Ukrainian refugees, such as local council caseworkers, are trained to deal with the safeguarding concerns that are specific to unaccompanied children who do not speak English?

**Neil Gray:** I thank Bill Kidd for raising a very important issue, and one that is a key concern for this Government. Sadly, the United Kingdom is in the unenviable position of being the only major European country without a legal route for unaccompanied children who do not have a prior familial connection. That position is untenable and exposes vulnerable children to preventable harm. I have raised the issue with UK ministers and have called for an urgent four nations meeting to agree what more can be done to provide sanctuary for those children. Scotland's priority will be to ensure that children who arrive are safe and cared for.

The arrangements are considered to be temporary and are in place only until the children can return home safely, in accordance with international convention. We will continue to work with the Ukrainian authorities, operational partners and the third sector to support reunions for displaced, unaccompanied Ukrainian children.

### **Energy Transition Fund (North East Scotland)**

**6. Douglas Lumsden (North East Scotland) (Con):** To ask the Scottish Government how much of the £500 million energy transition fund for the north-east has now been allocated. (S6O-01083)

**The Minister for Public Finance, Planning and Community Wealth (Tom Arthur):** The first £20 million of the 10-year £500 million just transition fund for the north-east and Moray—which we have called on the United Kingdom Government to match—was allocated in this year's budget. Since that announcement, ministers have engaged extensively with regional stakeholders, meeting trade unions, businesses,



communities and local authorities in order to develop the fund in partnership with those who live and work in the area. The insights collected have been crucial in shaping our approach. We are finalising the objectives of and criteria for the fund with our stakeholders and hope to publish those in the coming weeks.

**Douglas Lumsden:** Meetings are one thing, but people want action. The fund was unveiled more than nine months ago, but we still have no details. I hear that £20 million was allocated in this year's budget, but it appears that not one single penny has been spent and that the money is still sitting in the Government's coffers. We also do not know whether the fund will complement the UK Government's £16 billion transition fund. When will the devolved Government report back with an update about the fund so that it can actually start helping the people of the north-east?

**Tom Arthur:** That question demonstrates the risk of scripting the supplementary before hearing the answer to the substantive question. As I said, details will be published in the coming weeks.

The member asks where the money is. I remind him that the money has been allocated for this financial year and that we are six weeks into this financial year. The rapidity with which funds are deployed is not the strongest suit for the Tories to play. It took six years for the Tory Government to get from Brexit to indicating what the shared prosperity fund would look like.

We are engaging with partners across the region and working collaboratively on a bottom-up approach. We will report back to Parliament imminently on the criteria for and aims and objectives of the funding.

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

## First Minister's Question Time

11:59

### Ferries (Construction Contract)

**1. Douglas Ross (Highlands and Islands) (Con):** Yesterday, the Government finally found the missing documents in its ferry fiasco. For a brief moment, it looked like islanders and taxpayers here in Scotland might finally get the answers that they deserve, but they did not. For weeks, Nicola Sturgeon has stood in this chamber and told MSPs that Derek Mackay signed off the vital contract for Ferguson Marine to build replacement ferries, but operation blame Derek Mackay has a fatal flaw. This new document, which was previously hidden from the public, reveals that the person who signed the deal at the final stage was the Deputy First Minister. Civil servants escalated this to John Swinney and they waited for the Deputy First Minister to give the green light. Honest John's hands are all over this dodgy deal.

How does the First Minister explain blaming Derek Mackay when her own documents confirm that John Swinney signed off the deal?

**The First Minister (Nicola Sturgeon):** I think that all that Douglas Ross is displaying right now is his own utter desperation, which perhaps is not surprising given events since we last all gathered here for First Minister's questions in the chamber.

Let me read from the emails that were published yesterday. On the important one, people who have listened to this will remember that I said that I thought that, if this email could be found, it would be a one-line email saying that the minister was content with the proposal. Here is the email from Derek Mackay's office:

"The Minister is content with the proposals and would like"

it

"to be moved on as quickly as possible".

That was the decision to proceed with the contract.

The email from the official who had briefed the Deputy First Minister then says that the Deputy First Minister

"now understands ... that Mr McKay has cleared the proposal."

It seems pretty obvious to anybody who is looking at this that the Deputy First Minister did not take the decision. He was not even copied in to the advice of 8 October that was the basis of that decision. He was simply briefed on the decision

after it was taken, not even at his request, but on the initiative of an official.

It is really not unusual for finance secretaries to be briefed on all sorts of decisions that involve the spending of money. It does not mean that the finance secretary actually took the decision. I would say that Douglas Ross should know that that is how Government works, but of course Douglas Ross does not know how Government works, and on recent evidence Douglas Ross is unlikely to ever know how Government works.

**Douglas Ross:** It seems from that answer that the First Minister does not know how emails work, because it is very clear in the documents that officials escalated it to John Swinney, waiting for his green light. In the emails, civil servants state that the Deputy First Minister confirmed—this is a quote—

“the absence of banana skins”.

John Swinney could not find a single banana skin when they were absolutely littered around him. There were more banana skins in this project than there are in the monkey house at Edinburgh zoo.

I turn to the latest incompetence from this SNP Government. It published a series of responses to the requests for more information that were heavily redacted, with lines blacked out, except that it has done such a poor job of redacting the documents that, if they are copied and pasted into Microsoft Word, the information is revealed. One section of the redacted document warns of a risk of legal challenge for the contract. It states:

“The impact of a successful legal challenge could be high—in the worst case the contract could be declared ineffective”.

In other words, going ahead with the contract was such a bad idea that it could open up the Government to even more losses than it has already experienced.

I say to the First Minister that it is now clear to everyone why she and her Government wanted that redacted, but it is now in the public domain. We all knew that this was a bad deal, but will she tell us whether it was also unlawful?

**The First Minister:** Douglas Ross has, no doubt unwittingly, just holed his own arguments below the waterline—pardon the pun.

There are two matters. First, on the Deputy First Minister not seeing any problems with the award of the contract, that is because the Deputy First Minister had not been copied into the paperwork that formed the basis for the decision. The Deputy First Minister could not have been the person who took the decision, because he was not copied in to the paperwork of 8 October. He was not the decision taker. *[Interruption.]*

**The Presiding Officer:** Members!

**The First Minister:** As the email makes clear, he was briefed on the decision after the Minister for Transport and Islands had taken it.

Secondly, on the issues of legal challenge, ministers are briefed on many issues on which decisions could be subject to legal challenge. On the minority of occasions, such a challenge comes to pass; on most occasions, it does not. Ministers have to weigh up such issues in reaching decisions. However, where Douglas Ross undermines his own case is that it did not come to pass that the contract was legally challenged. Ministers weigh up all such issues and come to decisions.

What is now beyond any doubt—I suspect that this is what is really annoying Douglas Ross—is that the minister who took that decision was Derek Mackay. That is now clear from the email chain.

**Douglas Ross:** That is not clear; in fact, the exact opposite is clear, and maybe the stony silence from John Swinney—which is unusual in these exchanges—is telling in itself.

There we have it, Presiding Officer: the SNP’s secret Scotland has been foiled by copy and paste. They cannot even redact documents properly. It is little wonder that those ferries are not on time and on budget.

Caledonian Maritime Assets Ltd warned the Government about the risks, and we now know that the legal advice to the Government was that the situation was high risk, but it went ahead anyway, and taxpayers and islanders are paying the price for its failures.

The new emails state that John Swinney

“understands the background and ... the way is clear to award.”

If he did not clear the deal, it would not go ahead—that is what the emails say. He went ahead, knowing, as we have just revealed, that doing so could open the Government to legal challenge. We now know all of that, but we still do not know why the Deputy First Minister ignored all those banana skins.

Still missing is the most crucial document in the affair—the one that explains why John Swinney charged ahead against expert advice. Last night, Audit Scotland said:

“there remains insufficient documentary evidence to explain why the decision was made to proceed with the contract, given the significant risks and concerns raised by CMAL.”

Why did John Swinney go ahead with the deal, against the advice of experts, when he knew that the contract was so bad that it could be challenged in court and rendered ineffective?

**The First Minister:** I will make three points.

First, in Government, finance secretaries are often briefed on decisions that involve the spending of money. In this case, of course, the budget had already been approved by John Swinney.

Secondly—and interestingly, because he has to do this to sustain the case that he is trying to make—Douglas Ross has selectively quoted from the email from the official who briefed John Swinney. That email starts:

“Just finished my call with DFM”—

the Deputy First Minister, who was finance secretary at the time. Douglas Ross read out:

“He now understands the background and ... the way is clear to award.”

I will read out the bit that Douglas Ross did not read out. After

“He now understands the background”,

the email goes on to say:

“and that Mr McKay has cleared the proposal.”

Had Douglas Ross read out that bit, his entire argument would have fallen to pieces—that was a bit misleading, Presiding Officer. *[Interruption.]*

**The Presiding Officer:** Members!

**The First Minister:** I am not sure that Douglas Ross should be speaking to any other leader about their back benchers. I suspect that he might have issues rather closer to home.

Finally, the reasons for the decision are clear. The basis for the decision, and, in particular, the mitigations that had been put in place to address the risk of having no full refund guarantee, are set out in the paperwork of 8 October. Without the email that we now have from Derek Mackay, we could have assumed that that was the case, but I accept that we did not know for sure. However, now that we have that email, it is clear that the decision was taken on the basis of all the information and mitigations that are set out in the paperwork of 8 October 2015. That paperwork was not copied to John Swinney; it went to Derek Mackay as transport minister, and Derek Mackay took the decision. That is clear to anybody who reads the emails that are now published.

**Douglas Ross:** What is clear to anybody and everybody from these emails is that the junior transport minister agreed something, and it was escalated to the Deputy First Minister for the green light and approval, so that it could be said in the email that

“the way is clear to award.”

That was from the Deputy First Minister—he had to sign it off. However, the document that is

still missing is the crucial one; the one that explains why John Swinney did this. The First Minister has forgotten—her memory has gone blank again—but the good news is that the man with all the answers is sitting right next to her. If the First Minister will not tell us all the details, let us hear from the Deputy First Minister. Let us hear why he chose to ignore expert advice and forge ahead with a deal that has cost taxpayers £250 million. Let us hear why John Swinney decided to give the green light to a deal that opened up the Government to potential legal action.

The stench of cover-up and corruption is running through this whole sorry affair. If the First Minister—*[Interruption.]* If the First Minister will not come clean, let us get John Swinney on the stand. Will the First Minister agree to the Deputy First Minister appearing—*[Interruption.]* Will the First Minister agree to the Deputy First Minister appearing before Parliament and giving a statement in the chamber today, facing scrutiny and telling the public what on earth he was thinking?

**The First Minister:** It is not my job to help out desperate Douglas Ross, frankly, Presiding Officer.

On this issue, the Deputy First Minister was briefed as finance secretary because a decision had been taken by the transport minister that involved the spending of money. That is why it was a finance official who briefed him. I repeat that Douglas Ross has only been able to sustain his argument today—although he has not done so particularly well—by selectively quoting from an email and by missing out the crucial words that underline what is already clear in the email from Derek Mackay’s office: Derek Mackay took the decision.

I do not know whether Douglas Ross has actually bothered to read all the paperwork, but, from his questions, I suspect that the answer is no. The paperwork that shows why the decision was taken has always been there; it is the paperwork of 8 October 2015. We now know that Derek Mackay took the decision on the basis of the advice that is set out there. Those are the facts. I am sorry if Douglas Ross cannot accept them—I am sorry if he is too desperate to do so—but I am afraid that that is his problem.

### **Cabinet Ministers (Bullying Investigations)**

2. **Anas Sarwar (Glasgow) (Lab):** Can the First Minister confirm how many investigations into bullying by current or former Scottish National Party cabinet ministers there have been, whether those investigations have concluded, and what the outcomes of those investigations are?

**The First Minister (Nicola Sturgeon):** I have been asked this question by journalists over the past few days, and, as I made clear to them, I am not in a position to get into the issues because I am bound by very considerable legal data protection issues.

Governments have a duty of transparency, but they also have a duty to abide by the law on privacy and data protection. By its nature, a complaint includes personal details and data relating both to the complainer and the person complained about. That personal information can be made available outwith the narrow confines of the complaint only if there is a lawful basis to do so in the general data protection regulation. The law governing that is United Kingdom legislation, not legislation that was passed by this Parliament. Yes, there is a duty of transparency, but there is also a duty to abide by the law.

Anas Sarwar should perhaps confer with his deputy, Jackie Baillie, because she was one of the co-authors of a report that was published by a committee of this Parliament last year into complaints about another former minister. The report says:

“The Committee believes that the fundamental principle of any complaints process is that confidentiality must be observed ... The Scottish Government has a duty to ensure the confidentiality of the process”

and says that the

“Confidentiality of an investigation is of paramount importance.”

That is what the committee of this Parliament said, and those are the constraints within which I answer those questions.

**Anas Sarwar:** That committee also found the First Minister guilty of misleading this Parliament—I do not think that she should forget that, either.

No one is asking the First Minister to reveal confidential details; they are asking her to reveal the outcome of those investigations.

The First Minister did not answer the questions, so I will quote something to her:

“we have to lead by example, we have to show leadership and we have to make it very clear that those who work in Parliament and those who work elsewhere in society need the fullest protection”

from bullying. Those are the words of the Scottish National Party’s Westminster leader, Ian Blackford, speaking with regard to the Priti Patel case. I agree with him. After the allegations against Alex Salmond and then Derek Mackay, and the bullying allegations against UK Government ministers, we need to restore trust in politics, and that must start with complaints being handled transparently. Therefore, will the First Minister today confirm the outcome—not the

personal details—of the bullying investigation into Fergus Ewing? Will she confirm whether there have been any other investigations into current and former Scottish ministers? And will she commit to make public the conclusion of any and all complaints that are upheld against ministers in this Government?

**The First Minister:** This Government and I take very seriously any complaints about any ministers. That is evidenced by the development and the publication of the updated procedure for handling complaints made by civil servants about current or former ministers. This is not a question of any complaints, if raised, not being investigated. However, that has to be done within the law. I have to abide by the law. I have a duty to uphold the law. There are laws on privacy and data protection that apply in relation to the matter that we are discussing and, if I answer questions on it, I will be at risk of breaching that law. If I did so, I am sure that, next week or the week after, Anas Sarwar or his colleagues would ask for me to be held to account for doing that.

These are serious issues. They must be treated seriously, but they must also be treated within the confines of the law that applies.

**Anas Sarwar:** Let me be very clear. I am not asking for the data or for the personal details of the person making the complaint; I am saying that the public deserve to know the outcome of investigations relating to ministers in the SNP Government. That is an issue of public transparency.

The fact that Nicola Sturgeon cannot escape from is that her Government and the SNP operate in a culture of secrecy and cover-up—it is not the first time that we have heard that today. There are cover-ups when it comes to allegations against ministers, cover-ups when it comes to the awarding of Government ferry contracts, and cover-ups—shamefully—when it comes to the deaths of children in hospital. Further, there is a culture of contempt for journalists and anyone who dares to ask a difficult question of the First Minister—one standard for them and another for everybody else. There is a culture in which an SNP MP can avoid being disciplined for sexual harassment and can, instead, lead a parliamentary debate on the subject.

In 2003, Nicola Sturgeon said this of the then Scottish Government:

“They have the arrogance of a party which has been in power for too long and no longer believe the common values of fairness, decency and honesty apply to them.”

I cannot think of a more appropriate way of describing this Government led by Nicola Sturgeon. After 15 years of being in government, why does Nicola Sturgeon think that there is one

standard for her and another standard for everyone else?

**The First Minister:** The people of Scotland have had two opportunities in just a year to decide whether they think that my party has been in government for too long, and their answer on both occasions has been pretty clear.

These issues are important. First, on Queen Elizabeth university hospital issues, I am so opposed to transparency there that, with my Government, I have established a full independent statutory public inquiry into those issues.

Secondly, I stand to be corrected if somebody can challenge me on this, but I have probably answered more questions from journalists over the past couple of years than any other political leader anywhere on these islands has.

Thirdly, in my view, I have ended up being the subject of investigations over the past couple of years because I was not prepared to cover up accusations against a former minister. The fact is that I have to abide by the law. Whether I like it or not, all parties have rights under data protection law that protect their personal data. That includes the fact or the detail of complaints. The processing of that data can, under the law, occur only if there is a lawful basis to do so. That is the legal position.

Governments have a duty of transparency and I take that duty very seriously. However, Governments also have a duty to abide by the law on privacy and data protection. If we breached that law, Anas Sarwar would be among the first standing up in the Parliament to accuse us of doing so.

**The Presiding Officer:** We will now move to constituency and general supplementary questions.

#### **Scottish Football Writers' Association Dinner**

**Joe FitzPatrick (Dundee City West) (SNP):** I am sure that the First Minister and others across the chamber will join me in condemning reports of sexist, racist and homophobic comments at the Scottish Football Writers' Association gala dinner and will offer support to those who walked out in protest. Although I recognise that an apology has been issued, does the First Minister agree that what happened appears to be a shocking illustration of the outdated discriminatory attitudes that still exist in football and, indeed, in journalism, and which need to be eradicated?

**The First Minister (Nicola Sturgeon):** Yes, I very much agree with those sentiments. From what I have read about what occurred at that particular awards dinner, it was unacceptable. I pay tribute to Eilidh Barbour and others, who courageously took a stand against it and spoke

out. It is never easy for any woman to speak out in that way, particularly in what is traditionally a man's world, and Eilidh Barbour and her colleagues deserve credit for doing so.

What we have seen over the past week—that is one example; I think that another has been reported—is that sexism and misogyny still run far too deep in our society and it is a reminder that they must be tackled. It is also a reminder that that starts with male behaviour and that it is male behaviour that we must see changed.

#### **Rail Services**

**Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con):** The First Minister may be aware that the timetable for the new Reston station in my constituency does not include adequate evening services. That is a problem for my constituents. The Rail Action Group East of Scotland has said that there are no plans for ScotRail to provide evening services and that it is for Transport Scotland to confirm that.

We already have 40 per cent of trains to Tweedbank from Edinburgh being cancelled by the pay dispute, and now we have no evening services for my constituents. Will the First Minister confirm that she will work with Transport Scotland to ensure that there are evening services? Does she think that the current service is adequate for my constituents?

**The First Minister (Nicola Sturgeon):** It is important that people in all parts of the country have access to appropriate rail services. I certainly agree on that general point. I am happy to raise that issue with Transport Scotland and to come back to the member in due course.

#### **Mental Health Services (Tayside)**

**Michael Marra (North East Scotland) (Lab):** My constituent Ryan Caswell has been a resident patient in Carseview mental health unit in Dundee for two years and three months as a result of delayed discharge. Ryan has autism spectrum disorder and learning disabilities, and his parents are beside themselves with worry due to the lack of appropriate medical care being provided to their son. They fear for his life.

Ryan struggles to communicate and, for much of the past year, he has been crying out in severe pain, which has led only to restraint and sedation. After many months of suffering without help, he had five impacted molars removed. The staff available to him do not have sufficient medical training to diagnose patients in their care.

There have been two damning reports on mental health services in Tayside. The second of the Strang reports has been described to me as the most worrying report in Scottish public life.

This has gone on for years, as people suffer and die. When will it change?

**The First Minister (Nicola Sturgeon):** Those are really important issues. The independent oversight and assurance group on Tayside's mental health services provides scrutiny and assurance on the implementation of the recommendations of "Trust and Respect—Final Report of the Independent Inquiry into Mental Health Services in Tayside", and that group continues to work with partners, the third sector and people with lived experience to deliver improvements to mental health services and achieve outcomes that local communities and individuals have a right to expect.

I am not familiar with all the details of Ryan Caswell's case, but from what Michael Marra describes, the situation sounds unacceptable. In fairness to Ryan and his parents, who are understandably anxious and distressed, I want to look further into it, and when I have had the opportunity to do so, I or the Cabinet Secretary for Health and Social Care will reply in more detail to the member.

#### Cost of Living Crisis

**Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP):** Does the First Minister share my disgust at the comments that were made in the House of Commons by Tory Member of Parliament Lee Anderson, who said that people who use food banks across these islands do so because they "cannot cook" and "cannot budget", and does she agree that that clearly demonstrates that the Tories are completely out of touch with people who are suffering from the cost of living crisis that they created?

**The First Minister (Nicola Sturgeon):** Those comments were despicable and disgusting. It seems to me that every time a Tory MP opens their mouth right now, they demonstrate how out of touch they are with the suffering of too many people across Scotland and the entire United Kingdom.

People have to go to food banks not because they cannot cook but because they do not have enough money to feed themselves and their children. My Government is doing and will continue to do everything that we can to get money into the pockets of the lowest-income families across the country, and the Scottish child payment is the chief example of that. However, it is well past time that the Prime Minister, the Chancellor and the UK Government stood up, stepped up and took action to get money into the pockets of those who need it, to stop people having to decide whether to heat their homes or feed their children.

#### Midwifery Services

**Alexander Stewart (Mid Scotland and Fife) (Con):** First Minister, midwifery services across Scotland are at breaking point. A survey conducted by the Royal College of Midwives revealed that three quarters of midwives in Scotland are thinking of leaving the profession due to understaffing, burnout and fears that they cannot provide safe care. That is despite the Scottish Government having provided £12 million of funding to support the mental health and wellbeing of the workforce; it clear that that has had little effect. The lives of women and babies are at risk. The situation is not safe, sustainable or acceptable, so what urgent action can the Scottish Government put in place to rectify it?

**The First Minister (Nicola Sturgeon):** Midwives play a key role in making sure that women receive the care that they need when they need it, and we value the role that the RCM and its members have played in our on-going response to the pandemic. The Cabinet Secretary for Health and Social Care met with the RCM this week to discuss that report and its recommendations, and we will continue to work with the RCM and midwives generally to address the pressures that they and other health professionals work under.

Overall, nursing and midwifery staffing in Scotland is at a record high; it has increased by 14.5 per cent since this Government took office. That is the fact of the matter. All our health professionals are working under extreme pressure, and through our investment, support and reforms, we will continue to support them in the invaluable job that they do.

#### Mental Health (Loneliness)

**Carol Mochan (South Scotland) (Lab):** The First Minister will be aware that this week is mental health awareness week, with a focus on loneliness. Findings from the Mental Health Foundation show that 25 per cent of people who were surveyed had felt lonely some or all of the time over the previous month, and it is concerning that 31 per cent of people who were surveyed said that feelings of loneliness had negatively impacted on their mental health. Action is needed.

Despite having 15 years in office, the Scottish Government has failed to deliver an effective mental health strategy that supports the wellbeing of the Scottish population. Why has the First Minister failed so badly in that regard, and what steps can she set out today on prevention and intervention to address the crisis in our mental health services?

**The First Minister (Nicola Sturgeon):** Mental health is and will continue to be a priority, as I have said many times in the chamber. The fact

that more people feel able to come forward with mental health problems is something that we should continue to support, but we must make sure that services are there for them when they need them. The focus of mental health awareness week is loneliness and isolation, and the Scottish Government supports a range of work in that area.

Last year, we provided more than £20 million to local communities through the communities mental health and wellbeing fund, which supports adults. Earlier this month, we announced that a further £15 million would be available in this financial year. That fund is supporting almost 2,000 local community projects, many of which address loneliness and isolation. We are investing £10 million over the course of the parliamentary session to tackle social isolation and loneliness specifically. We will continue to make investments and to do everything that we can to support the many organisations across the country that do such good work.

### Cabinet (Meetings)

**3. Alex Cole-Hamilton (Edinburgh Western) (LD):** To ask the First Minister when the Cabinet will next meet. (S6F-01083)

**The First Minister (Nicola Sturgeon):** On Tuesday.

**Alex Cole-Hamilton:** I am grateful for that reply.

Raw sewage is released into our rivers every day. It is routinely dumped by Scotland's Government-owned water company. Thanks to investigations by *The Ferret*, we now know that that happened more than 10,000 times last year, which was 30 times a day. Scottish Water is required to monitor only 3 per cent of sewage release points, so the true figure will be much worse. Scotland is way behind England on that.

The SNP-Green coalition claims to champion the environment, but the Minister for Environment and Land Reform described the routine dumping of untreated human waste in our rivers as "vital". That should not be allowed to happen. We are talking about excrement, wet wipes and sanitary towels. Right now, in west Edinburgh, there are otters, fish, children and dogs playing in the River Almond, where sewage has been dumped hundreds of times.

I ask the First Minister, why are there no targets to end the release of sewage into rivers? How long does she plan to allow that to continue?

**The First Minister:** Alex Cole-Hamilton has raised an important issue. The cleanliness of our rivers and seas is of paramount importance. How we deal with waste in all forms in our country is a big issue and it is a big challenge for Governments everywhere. I apologise to Alex Cole-Hamilton—I

have not seen the investigation by *The Ferret*, but I will take steps to ensure that I do. I will come back to him with more detail about what the Government is doing and what more it, like all Governments across the world, needs to do to tackle that serious issue.

### Owner-occupied Homes (Decarbonisation)

**4. Kenneth Gibson (Cunninghame North) (SNP):** To ask the First Minister what the Scottish Government's response is to the report that was published last Friday, "Owning the Future: A framework of regulations for decarbonising owner-occupied homes in Scotland", which was commissioned by the Existing Homes Alliance. (S6F-01081)

**The First Minister (Nicola Sturgeon):** The Scottish Government welcomes the publication of the research that was commissioned by the Existing Homes Alliance. Heating our homes and our places of work is the third-largest cause of emissions in Scotland. In the light of that, our "Heat in Buildings Strategy: Achieving Net Zero Emissions in Scotland's Buildings", which was published in October, sets out over 100 different actions to support households and businesses to make energy efficiency improvements and transition from fossil fuel heating systems.

The strategy includes a commitment to regulate for minimum standards in homes. We will consult in detail on our proposed approach in the coming year. The Existing Homes Alliance and others have worked positively and constructively with us to date, and we will continue to engage with that organisation and others as we finalise our approach.

**Kenneth Gibson:** I thank the First Minister for her detailed reply. It is a highly complex area and there are very detailed recommendations in the report, including on the need for legislation, if we are to fully decarbonise our buildings by 2045. Scottish solutions that were identified in the report include installation of low-temperature heat pumps, district heating and, for some homes, biomass boilers. The key driver will be the improvement of building fabric efficiency.

Can the First Minister confirm that, as we focus more on decarbonisation, her Government will prioritise a fabric-first approach, introduce a fabric energy efficiency standard, begin the phasing out of fossil fuels for heating and act to ensure that we have in our communities the skilled workers who are necessary to deliver on our vital climate change targets?

**The First Minister:** We have a long-standing commitment to taking a fabric-first approach, which is critical to reducing energy demand, making homes warmer and preparing them for

zero-emissions technologies. We have committed to regulating minimum energy efficiency standards in homes by 2033, which will be equivalent to the energy performance certificate, reformed to focus on fabric measures.

Fabric improvement alone will not get us close to net zero; we need a strong focus on heating-system change. We will phase out the need to install new replacement fossil fuel boilers in off-gas areas from 2025, and in on-gas areas from 2030. The opportunity that is presented by the heat transition will require further capability and capacity in our supply chains, so we are also developing a new heat in buildings supply chain delivery plan with industry, so that we can deliver that work at the pace and scale that are needed.

**Daniel Johnson (Edinburgh Southern) (Lab):** I thank Kenny Gibson for raising the issue, because 28 per cent of people in Scotland live in tenemented dwellings, and the proportion is even higher in my constituency. On page 3, the report sets out clearly that we need to look at existing forms of heating, because air source heat pumps simply will not work for people in tenemented dwellings. Likewise, the current legal framework makes it difficult for tenement-dwelling owners to do the required retrofitting.

Will the Scottish Government give consideration to plans for investment in municipal heat networks and for a change in the law to make it easier for tenement owners to come together to do the retrofitting that is required to heat homes sustainably?

**The First Minister:** Yes, we will do all that. I certainly have a lot of sympathy with the points that have been made. I, too, represent a constituency—albeit that it is in a different city—that has a high number of tenement properties.

The £300 million heat network fund will support large networks that are suited to urban environments as well as supporting small rural and community-led heat networks and communal systems.

The issues are complex, as I acknowledged in my response to Kenny Gibson. We are working through those issues in partnership with industry. It is important that all those points are borne in mind as we continue to do that.

**Liam Kerr (North East Scotland) (Con):** The cost of the heat in buildings strategy is £33 billion. This Government has offered £1.8 billion towards it. Who will pay the rest?

**The First Minister:** Liam Kerr should know the process that we have under way, right now. Of course, the £1.8 billion will come over the course of this parliamentary session. That significant investment will support those who are least able to

pay, as will Scotland's heat network fund and the social housing net zero heat fund. We have also established the green heat finance task force, which will recommend ways to increase private sector investment and look at contributions from individuals, which we all want to keep to a minimum.

As the Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights set out when he launched the strategy, it will require us to lever in significant private capital investment. I was at the All-Energy 2022 conference yesterday, where I heard Keith Anderson of Scottish Power make that point. The good news is that significant investors of private capital are looking for ways to invest in the net zero transition, so the task force has an important job to do. That work is under way.

### Early Learning and Childcare

**5. Meghan Gallacher (Central Scotland) (Con):** To ask the First Minister what meetings the Scottish Government has had with the private and voluntary nursery sector regarding the delivery of its early learning and childcare strategy. (S6F-01082)

**The First Minister (Nicola Sturgeon):** We continue to engage with the childcare sector in open and constructive discussions as we develop a new strategic plan for our childcare commitments for the remainder of this parliamentary session.

Providers in the private, third and childminding sectors are playing a crucial role in the successful delivery of the transformational 1,140 hours offer, through which more than 111,000 children are accessing high-quality, funded early learning and childcare.

Scotland has the highest ELC funding rates across the United Kingdom. As a result of the expansion, the average rates that are paid to providers—for three to five-year-olds who receive funded ELC—have increased by 48 per cent between 2017 and 2021. We continue to work closely with partners in local government to ensure that providers are paid sustainable rates that reflect the cost of delivery.

**Meghan Gallacher:** Scottish Conservative MSPs have met concerned representatives from nurseries across the private, voluntary and independent sector, who have continuously raised concerns over their relationship with local authorities. We have tried to arrange a meeting with the Minister for Children and Young People in order to raise those concerns on the nurseries' behalf. A particular concern is the funding formula that creates inequality between local authorities and the PVI sector. Regrettably, the minister has now rescheduled two meetings that were due to



take place. These matters are pressing. If the minister cannot meet concerned MSPs, will the First Minister do so?

**The First Minister:** Scottish Government officials met representatives of ambition 1140 recently to discuss their specific concerns. A commitment has been given to hold a further meeting in the near future to continue those discussions and, of course, there will be ministerial engagement as required.

It is important to recognise that the funding agreement between the Scottish Government and the Convention of Scottish Local Authorities to support the expansion that has been delivered so far allows local authorities to pay sustainable rates to private and third sector nurseries that provide free early learning and childcare places, as well as to childminders. However, I know that there are concerns, and we want to address them.

The financial sustainability health check that was published in August 2021 found that 88 per cent of private and third sector providers that delivered funded ELC planned to pay all staff in their setting the real living wage from August last year. That can be compared with the position before the expansion in 2016, when around 80 per cent of practitioners were paid less than the living wage.

Of course, public funding accounts for around 33 to 45 per cent of overall income for private childcare services, the majority of which also provide private services, so there are bigger issues that need to be addressed. We will continue to engage with those in the sector, and we have a determination to do so.

**Natalie Don (Renfrewshire North and West) (SNP):** With energy bills and inflation skyrocketing, unchecked by the United Kingdom Tory Government, thousands of parents are having to resort to skipping meals to ensure that their children can get fed. As more and more young families struggle to stay afloat through the cost of living crisis, what further action is the Scottish Government taking to help new parents make ends meet, so that neither they nor their children need to go hungry?

**The Presiding Officer:** I call the First Minister, but I remind members of the need to ensure that supplementaries reflect the substantive question.

**The First Minister:** The member raises a really important issue. The difficulties that people are having feeding their children right now is perhaps one of the most important issues that any politician and any Government has to address.

The expansion of free childcare is very relevant here. It is worth up to almost £5,000—£4,900—each year for eligible children, so it is one of the

significant interventions that the Government has made. In addition, there are five family benefits, including the Scottish child payment, which is now £20 per week and is set to be extended to under-16s and rise to £25 per week by the end of this year.

**Willie Rennie (North East Fife) (LD):** The problem is that there is a massive exodus of staff from the private and voluntary sector, because there is no fair funding formula and those nurseries cannot compete with council wages. That has a direct impact on not only the capacity but the flexibility that the First Minister will remember she promised would be available for parents across the country. The situation is stark, so will the First Minister intervene and fix it?

**The First Minister:** The fact of the matter is that parents across the country have more funded childcare available, and it is available more flexibly. The funding agreement between the Scottish Government and COSLA to support the expansion allowed local authorities to pay sustainable rates. I have recognised, however, the issues that those in the private and voluntary sector are facing, and I have given a commitment that we will continue to engage with them to seek to address those issues.

### Abortion Healthcare

**6. Monica Lennon (Central Scotland) (Lab):** To ask the First Minister whether the Scottish Government will convene an emergency summit on abortion healthcare in response to anti-abortion rights action in Scotland and around the world. (S6F-01094)

**The First Minister (Nicola Sturgeon):** Women have the right to access abortion without fear or intimidation. To that end, let me say this again to anyone who wants to protest against abortion: do it outside Parliament. Protesting outside hospitals or sexual health clinics targets women, not lawmakers, and it causes stress and anxiety to those who are accessing healthcare. That, in my view, is deeply wrong.

I strongly support the introduction of buffer zones, and the Government is actively considering how this Parliament can legislate in a way that is effective and capable of withstanding legal challenge. I am also aware that Gillian Mackay might shortly consult on a member's bill on the issue.

On the latter point about legality, members will be aware that the law on buffer zones that was passed in Northern Ireland has recently been referred to the Supreme Court. The outcome of that might have relevance for any steps that we take here. In the meantime, as we consider and, I hope, resolve issues around national legislation,

we will support any local authority that is willing to use byelaws to establish buffer zones.

Finally, I am very happy to convene—indeed, I will personally chair—a round-table summit to discuss buffer zones and any other matters that need to be addressed to ensure safe and timely access to abortion services in Scotland within the current law.

**Monica Lennon:** I warmly welcome the First Minister's agreement to convene an urgent summit, which more than a dozen women's organisations have called for. I also welcome her personal commitment to chair the talks and to facilitate politicians, campaigners and healthcare experts working together. That is hugely important, and I thank her.

Does the First Minister agree that we must use the forum to actively demonstrate our solidarity with women in America, and around the world, who fear that their legal rights are slipping away, while we also take urgent action to deal with the challenges facing people who access and provide abortion healthcare in Scotland?

Although it is the case that operational policing matters are for Police Scotland, does the First Minister agree that it is important that any member of the public who experiences harassment or intimidation when seeking to access or provide such healthcare must feel confident that if they come forward to the police with complaints, those will be properly investigated?

**The First Minister:** I agree with all that Monica Lennon has said. I will address each of her points briefly.

First, I agree that it is important to show solidarity on such issues. The attack on abortion rights that we are seeing—chiefly in the United States, as a result of the concern about the overturning of *Roe v Wade*, but also in other countries—is deeply concerning. Let us call it what it is: an attack on the right of women to control our own bodies. I believe in a woman's right to choose, and that those of us who hold that view have a duty to show solidarity with those in other parts of the world where that right is coming under most significant attack.

On police powers, of course those are operational matters for the police. It would be wrong for me to say how the police should use those powers, but there are powers under antisocial behaviour legislation that are there for the police, should they judge that it is appropriate to use them.

Finally, everybody, without exception, should have the right to access healthcare without fear and intimidation. That applies to any woman—no woman does this lightly—who is seeking to access

abortion services completely within the law. I say again to those who want to protest: in a democracy there is absolutely a right to protest, but come to Parliament and protest against lawmakers. Do not cause women to feel fear, anxiety and intimidation.

**John Mason (Glasgow Shettleston) (SNP):** If there is going to be a summit on abortion healthcare, will the 24-week limit be under review? Science and medicine have moved on since 1990 and many children are surviving at 23 weeks.

**The First Minister:** No—that would not be on the agenda of the summit that I have agreed to convene. I do not support a reduction in the current time limit for abortion. On the contrary, the challenge in Scotland is to ensure that women—and I repeat that this is something that no woman does lightly—who need to access that right can do so in a safe and timely manner.

**Gillian Mackay (Central Scotland) (Green):** As we have heard, the First Minister will be aware of the loud protest outside the Sandyford clinic in Glasgow yesterday. Not only do such protests intimidate many of the people who use those services, but clinicians have contacted me to say that the protest forced the clinic to close particular rooms on one side of the building, due to the amplification system that the protesters were using. As part of the summit that the First Minister has just committed to, will she ensure that clinical and trade union representatives are present, as well as patients' representatives, to ensure that clinicians are not subject to harassment when they are simply doing their jobs?

**The First Minister:** I will give that commitment. I also take the opportunity to pay tribute to Gillian Mackay for the work that she has done on the issue. I hope that she will agree to take part in the summit that we are talking about.

Even if the Sandyford clinic was providing only abortion services, the protests outside it would, in my view, be wrong because they cause women to feel intimidation and anxiety. However, a range of sexual health services are provided by the Sandyford clinic. The last thing that anybody should be doing is making it harder for people to access those services and clinicians to go about the jobs that they do.

I appeal again to those who want to protest. Let me underline this point: it is a right in a democracy to protest—I am not questioning that in any way, shape or form—but the place to protest is where the laws are made. The people to protest to are us—parliamentarians and lawmakers. Allow people to exercise the right to access healthcare in the way that we all have a right to do, without any fear and intimidation and without added stress and anxiety; that is the decent thing to do.

**The Presiding Officer:** That concludes First Minister's question time.

## Striking University Staff

**The Deputy Presiding Officer (Annabelle Ewing):** I ask the people who are leaving the public gallery to please do so quickly and quietly. Thank you.

The next item of business is a members' business debate on motion S6M-04187, in the name of Maggie Chapman, on supporting striking university staff. The debate will be concluded without any question being put. I ask members who wish to speak in the debate to please press their request-to-speak button now.

### *Motion debated,*

That the Parliament notes reports that staff are taking part in two sets of industrial action in two industrial disputes at a number of universities in the North East Scotland region, and across the country; understands that these are over pension cuts and falling pay, gender and ethnicity pay gaps, precarious employment practices, and unsafe workloads, known as the Four Fights; believes that cuts to pensions of an average of 35% are going ahead on the basis of an outdated valuation of the Universities Superannuation Scheme (USS) pension fund; understands that this valuation was made during the height of the COVID-19 pandemic's impact on the economy, and that the health of the fund has recovered significantly since then; appreciates that the trustee that manages the scheme has reportedly confirmed that a new valuation at this point could result in benefits being increased, rather than cut; notes with regret that university management has reportedly rejected proposals made by the Universities and College Union (UCU) that are deemed to be "viable and implementable" by the USS; understands that, in a recent survey of UK higher education staff, two thirds said that they were considering leaving the sector over cuts to pensions and attacks on pay and working conditions; notes the calls on the management of all educational institutions involved in both the pensions and Four Fights disputes to engage constructively with staff and the unions to resolve the disputes, and notes the view that reversals of pension and pay cuts and urgent action against casualisation, gender and ethnicity inequalities in pay and promotions, and against unsafe workloads, are in the best interests of university staff, students, Scottish universities and Scotland as a whole.

12:51

**Maggie Chapman (North East Scotland) (Green):** Universities in the north-east of Scotland and across the country have made enormous contributions to Scotland, Europe and the world. Medical science has been transformed by the discovery of insulin and the development of the magnetic resonance imaging—MRI—scanner, both of which have connections with the work of University of Aberdeen academics. Abertay University was the first in the world to offer courses in computer game design and has spawned a whole generation of game designers.

Scotland's universities attract students and researchers from across the world for their reputation of excellence in research and teaching.

However, universities are nothing without their students, their academics and their support staff, and the way in which some universities are treating their staff puts the future of our institutions under serious threat.

Staff are taking a stand by striking, and I am glad that the Parliament has the opportunity today to express support for their fight for fairness. I thank all those staff, University and College Union members and branches, others who have been in touch in advance of today's debate, and of course colleagues for supporting my motion and enabling the debate.

Pensions are a vital element of any fair society and should allow us to live in dignity after a lifetime of hard work. However, dignity is not what university staff will get now that new arrangements for pensions have been forced through. Staff will see a cut in their pensions of between 35 and 41 per cent. More than a third of someone's nest egg for their retirement—their deferred wages—will be gone, because university management insists on basing pensions on a largely imaginary deficit.

The universities superannuation scheme—the pension scheme that operates at many universities in Scotland and across the United Kingdom—was last valued in March 2020, when economies across the world were in free fall as a result of Covid lockdowns.

Since then, the health of the scheme has recovered significantly. A recent financial monitoring report, which the scheme's own trustees provided, confirms that, were a new valuation conducted now, the deficit would be reduced by at least 85 per cent. However, with some honourable exceptions including the University of Glasgow, which has called on the next valuation to be used to increase pension payments, management insist on pushing ahead with the clearly outdated March 2020 valuation. University principals and managers appear content to spend public money—Scottish public money, which has been voted on by this Parliament—to fund a deficit that has massively reduced.

That is where the Scottish Government comes in. Pensions are not regulated by the Scottish Parliament, and universities are autonomous, independent organisations. However, they are funded by public money, so the Scottish Government has a clear role to ensure that university management act responsibly and to encourage management back to the table to negotiate properly with trade unions.

Staff are striking not just about pensions but about fairer pay, an end to unsafe workloads, the rolling back of casualisation and action on pay gaps that women, black, Asian and minority ethnic

and disabled staff face—the four fights campaign. Average pay in the sector has been cut by around 25 per cent since 2009 and, with inflation set to peak at 10 per cent, at least, the situation will only get worse. The same period has seen ever-rising workloads for staff, with the average higher education staff member working around 50 hours a week.

Like so many other public sector workers during the Covid-19 lockdowns, university staff went above and beyond, and they are still doing so. Underresourced counselling staff had to deal with a huge demand for their support from students. Library staff worked incredibly hard to ensure that students off campus could access learning resources. As well as dealing with the disruptive impact of Covid on their research, academic staff converted entire degree programmes to be taught online. That process would usually take years, but it was done in weeks, facilitated by legions of information technology staff.

Universities might simply have shut down under the pressure of what they needed to do, but they did not, and that was because of their staff. That staff were rewarded for all that work with a pay increase of 0 per cent in 2020-21 is nothing short of sheer contempt.

Staff are striking against increasing casualisation. More than a third of academic university staff are on a fixed-term contract. Talk to any academic and they will tell you of the years that they have to spend shuttling from contract to contract, constantly having to uproot themselves and move to a new university. Many of our students are taught by postgraduate research students, who teach alongside their studies on highly insecure contracts.

Given the falling pay, rising workloads and more precarious contracts, it is no wonder that the gender, black and minority ethnic and disability pay gaps stand at 15.5 per cent, 17 per cent and 9 per cent, respectively.

Faced with all that, staff have voted to strike in huge numbers. Last month, 77 per cent of those who were balloted at the University of Dundee voted to strike again for fairer pensions and, at the University of Aberdeen, 73 per cent voted to strike. Some local unions will not go ahead with further strike action, but that is nothing to do with the resolve of staff and everything to do with Tory trade union laws that have deliberately made it harder to strike.

In a UCU survey, two thirds of staff said that they were likely or very likely to leave the university sector within the next five years because of pensions, pay and working conditions—potentially, two thirds of the workforce lost in five years. Those working conditions are the

learning conditions of students, many of whom this Parliament rightly spends hundreds of millions of pounds on so that they receive an outstanding education. However, that level of excellence is under threat because of the pressures on staff. Those pensions are paid to researchers who conduct life-saving medical research. The ever-falling pay and the ever-rising workloads will make it harder to retain expertise on climate change and the other challenges that we face.

In short, this is a problem not just for our university staff or the higher education sector but for us all. If our universities lose our hard-working researchers, lecturers, library staff, learning technologists, postgraduate teaching and research assistants and many more, we will all be worse off. It is time for university management to come to the table and negotiate in good faith. It is imperative for Scotland that they do so. We must take a close look at what is happening with pensions if deficits that do not really exist are allowed to take nearly £80 million out of workers' pockets.

I pay tribute to university staff. The current disputes have roots that go back years, and staff have struggled against unfair treatment for a long time—too long. I say to them that unions work, strikes work and solidarity works. Their action is not only the way to better pay and conditions for themselves, it is part of a process of rethinking how universities can be: not businesses, but places in which we can imagine a better world and create and develop the tools to build that world. They should be in no doubt that they have the full support of the Scottish Green Party in doing so.

**The Deputy Presiding Officer:** I remind all members who wish to speak in the debate that their card needs to be in and their button needs to be pressed.

13:00

**Michael Marra (North East Scotland) (Lab):** I associate myself with Maggie Chapman's comments and pay tribute to her for securing this important debate, as well as to higher education staff across Scotland. I also declare an interest in that I am a member of the universities superannuation scheme with 15 years of contributions, and I recently received my letter that indicated the significant reductions in my pension. That is nothing in comparison to some of my former colleagues at the University of Dundee, who are some of the lowest-paid staff and who are fighting to retain the benefits of their local pension scheme.

I consider that university management is in the process of breaking a covenant that it has made with staff. When someone takes on a job, pays into a scheme and plans for the life ahead of them,

they make decisions on the basis of that money. We have a responsibility to maintain dignity in retirement as best we can, wherever we can, by making sure that schemes continue to be well funded.

Maggie Chapman makes important and correct points about the valuation of the scheme. When the valuation was made during the previous major dispute about the USS, it took the same form. There was a mis-valuation and—lo and behold!—within months, the value of the scheme rose significantly. This is a long-term issue that has bedevilled the sector and that has resulted in many strike days and affected many students and much research.

The pay uplift that the UCU is fighting for during a cost of living crisis is critical. The issues of casualisation and pay inequality must be addressed, and the figure that two-thirds of staff are considering leaving our precious universities is a stark reminder of that.

I want to talk about the workloads that university staff have taken on in recent years. We must pay tribute to them for that. When I worked at the University of Dundee, one woman put the entirety of teaching for our school online—for thousands of students—within two weeks, when the university had spent £16 million on a scheme to do that and failed utterly. That is the kind of can-do attitude that maintained our universities during the pandemic and in the face of the challenges that were in front of them. I pay tribute to those people.

Our universities are in a really difficult situation and it is getting worse across Scotland. The system is overloaded and the business model is not working. The Government has stewardship of the system, which is vital national infrastructure that could not be more critical to our future, whatever direction it might take—I know that we have regular disagreements on that.

In many regards, the research excellence framework results that came out today are an outstanding set of results, but we should look at the fact that eight of the top 10 research institutions have declined in comparison to those in the rest of the UK. We know why: there has been an 18.2 per cent decline in the research excellence grant under this Government and, as a result, the research funding capture for the sector has declined by 2.5 per cent.

All of that is based on the fact that there has been no increase in the unit of resource that is paid to universities for 13 years. That leaves the universities in a precarious situation, and the issues are flowing down to staff. We know that the business model of ever-increasing reliance on international students that was driven by the decisions that the Government has taken and

imposed on our universities is not sustainable socially or environmentally, and neither is the ever-increasing size of universities in our major cities, which is pushing families out of housing and causing a huge crisis.

The system is cracking. Colleagues on the Education, Children and Young People Committee and elsewhere in the Parliament are keen to look at the issue, and the Government must change its attitude before the system breaks.

13:04

**Kaukab Stewart (Glasgow Kelvin) (SNP):** I am grateful to Maggie Chapman for giving us the opportunity to have a members' business debate on an important issue that affects universities and colleges around Scotland.

Scotland's universities are world leading. We can and should be proud of their success and international reputation, both of which are down to the expertise and dedication of lecturers, academics, librarians and other staff, who often go above and beyond to ensure that success.

I would also like to take the opportunity to acknowledge the work that university and college staff have done in supporting students throughout the pandemic and to thank them for it.

Universities play a key role in the Scottish Government's Covid recovery plan, and we need them to be robust and resilient institutions so that they can fulfil that role effectively. It is clear that the on-going dispute that today's debate highlights undermines that work, and it is absolutely vital that a resolution can be found as soon as possible.

The dispute focuses primarily on measures to cut the universities superannuation scheme pension. We have been clear in saying that the UK-wide universities superannuation scheme does not fall within the devolved responsibility of the Scottish ministers. Universities are autonomous institutions, and matters relating to pay, working conditions and pensions are for them to determine. Therefore, the Scottish Government has no locus to intervene in the dispute.

Nevertheless, the Minister for Higher Education and Further Education, Youth Employment and Training has met university leaders and trade unions on a number of occasions to encourage them to continue negotiations, in an attempt—

**Katy Clark (West Scotland) (Lab):** I understand that the Scottish Government provides more than £1 billion to universities every year. Does Kaukab Stewart not think that that gives it a locus to intervene on the issue?

**Kaukab Stewart:** I understand the member's point, but the dispute resolution process must be

conducted between the employer and the trade unions. That is the nature of collective bargaining. We would not want the Government to intervene in that process.

Central to the Scottish Government's fair work approach is the expectation that employers, workers and trade unions should work together to ensure that workers are treated fairly, and university and college staff should not be an exception to that approach.

The UCU's briefing for the debate lists some concerning statistics that suggest that resolution of the dispute will be difficult, but that does not remove the responsibility of university leaders and trade unions to reach an agreement as soon as possible, in the interests of staff and students. Many students have written to me to highlight the effects that the dispute is having on their education and learning.

Despite the on-going dispute, today, Universities Scotland has released statistics that show that nearly 85 per cent of the research submitted by Scotland's universities has been judged to be world leading.

**Michael Marra:** Will the member take an intervention?

**Kaukab Stewart:** I will just crack on.

Most recently, the Royal Conservatoire of Scotland was ranked fifth for studying the performing arts in the prestigious Quacquarelli Symonds world university rankings.

I make no apology for repeating that Scotland's unis and colleges are institutions that we can be proud of. I remind everyone that Glasgow Kelvin is very proud to have eight—the figure increases to nine if we include the Open University—further and higher education institutes within the constituency. I trust that employers and unions will redouble their efforts to find a resolution.

**The Deputy Presiding Officer:** I call Oliver Mundell, who joins us remotely.

13:09

**Oliver Mundell (Dumfriesshire) (Con):** I thank Maggie Chapman for bringing this important debate to the chamber and for giving voice to the concerns that are felt by many in the university sector.

As a member of the Education, Children and Young People Committee, and from the contents of my inbox, I am well aware of the strength of feeling on the issue. Although it is hard for the committee to intervene in a dispute between employee and employer, I welcome the fact that the committee has committed to looking at wider

issues and challenges in the university sector later this year.

Scottish Conservatives, like others who have spoken today, remain incredibly grateful to lecturers and teaching and support staff at universities, who have worked exceptionally hard in the past two years as Scotland has gone through the worst of the Covid-19 pandemic. That work builds on years of professionalism and world-leading research and teaching. Without our lecturers and teaching staff, our university sector would not be as vibrant and successful as it is and would have fallen further behind in the face of financial pressures.

Given that clear and unwavering commitment, the fact that we are seeing widespread strike action and discontent speaks of a deep unhappiness in the sector, which is something that Scottish Conservatives are concerned about. Of course, we do not want education to be further disrupted, especially for students, but we recognise that staff face pressures and that changes to pensions and issues with pay and conditions are understandably sources of frustration and threaten the long-term viability of the sector.

Although I do not believe that it is for politicians to tell independent institutions how to employ their staff, I cannot believe that anyone thinks that the casualisation of the university workforce, unsafe workloads or inequalities in pay and promotion are in the best interests of university staff, students, universities or Scotland as a whole. Parliament and Government have a role here: we should be asking difficult questions about funding and the general decline that the current model promotes.

If universities do not feel that fair working practices are affordable under the current funding model and in the context of the courses that they provide, they must speak out to explain the challenges that they face. In the meantime, the priority must be for university bosses to get back round the table with staff and unions to try to find a way forward. It is disingenuous of members of the governing party to suggest that the Government has no role. Although it is not for the Government to tell universities what to do, it has an important role in facilitating that discussion and in making it clear that, where Government funding supports activities, fair work and good relations between employer and employee must be at the heart of all decisions.

The long-standing issues must be resolved, or everyone will suffer. We cannot let the issue drag on: all parties must take responsibility for bringing it to a conclusion and moving the sector forward. I again thank the member for today's debate, which I hope will nudge the situation a little further

forward. As we have heard from other speakers, the issues will not be easy to resolve.

**The Deputy Presiding Officer:** Mr Mundell, I apologise for the fact that your screen froze at certain moments. We could hear you loud and clear, which I hope gives you some comfort.

13:13

**Martin Whitfield (South Scotland) (Lab):** It is a pleasure to speak in the debate, and I congratulate Maggie Chapman on lodging the motion and getting cross-party support for it.

We are talking about an element of our community—university and college staff, but also our students—that is so important for the future that we all hear so much about in the chamber and in our newspapers and for what we want Scotland to become. Our university and college staff are entrusted with leading students into adult life. We expect so much of them, but the current dispute and the wording of the motion show that we invest little in them.

There has been mutual support between our students and our university and college staff. Each knows the importance of the other. Students know that success lies in quality support from university and college staff. For those staff, it is an absolute vocation to give the next generation the best start in adult life. Matt Crilly, president of the National Union of Students Scotland, has said that

“college students in Scotland face a perfect storm”.

In a letter to the Scottish Government that was co-signed by student officers from colleges across Scotland, he calls for

“investment to ensure that students, staff or our colleges do not bear the brunt of the cost-of-living crisis we face.”

The motion sets out that this country is facing two sets of industrial action in two sets of disputes based on what we have heard described as the four fights and also the on-going dispute on pensions. As we have heard, pensions will see average cuts of 35 per cent based on what we now know to be an outdated valuation of the fund. All of that comes on the back of the Scottish Government's budget for 2022-23, under which the college sector faces a real-terms cut of £23.9 million to its core budget, with the loss of the £28 million that was provided in 2021 to support it through the pandemic. Of course, our students and colleges have not come out of the pandemic or returned to pre-pandemic teaching, support and conditions.

**The Minister for Higher Education and Further Education, Youth Employment and Training (Jamie Hepburn):** Does the member recognise that the specific funding that he mentioned came on the back of UK Government

consequential that it has removed? That money does not exist for the Scottish Government any more.

**Martin Whitfield:** I am grateful for that intervention but, of course, the reality is that the impact is still hitting our college sector and our students. They are not getting their lectures.

Scottish Labour supports the trade unions' position that the current pay offer is unacceptable. Our dedicated lecturers should not be facing real-terms pay cuts through below-inflation awards, but this is just the latest in a long line of examples of the SNP-Green Government undervaluing education and our teaching professionals. The Scottish Government uses so much rhetoric regarding prioritisation of education, but the action that it takes rarely backs that up.

Our young people have had two years of unprecedented disruption to their education. Our college and university lecturers are key to those young adults' recovery from Covid and they must be valued as such. Those staff pride themselves on supporting the education of their students and they are right to do so. They would not risk more disruption through industrial action unless they believed that it was absolutely necessary. Colleges Scotland has highlighted that the 2022-23 budget that the SNP-Green Government has just passed means a national reduction in funding for the sector that is equivalent to £51.9 million. All of that is leading to increasing pressures on finances, but the pay offer devalues our education.

I say with some caution that the Government's attitude in standing to the side and not doing stuff also devalues our education. As Matt Crilly said,

"We need the government to prioritise student welfare, reverse their cuts to our education and ensure staff are supported."

13:17

**Richard Leonard (Central Scotland) (Lab):** I refer members to my entry in the register of members' interests.

I thank Maggie Chapman for securing this important parliamentary debate on this long-running industrial dispute. There is no wonder that the university workers are taking industrial action. These are workers whose employers imposed a freeze on pay two years ago and then imposed a below-inflation pay award on them last September—timed, I have to say, to undermine a lawful ballot for industrial action with the squalid bribery and cajolery of back pay: a trick that did not succeed.

The same employers have now threatened the deduction of wages—and presumably pension contributions as well—when trade union members

take part in industrial action short of strike action. That is a draconian step that, I have to say, I never saw taken in all my time as a trade union organiser, even by cut-throat multinational corporations, never mind by public institutions whose very existence depends on billions of pounds of public money.

Then there is the widespread and unforgivable casualisation of the workforce in our universities so that a third of academic staff are on fixed-term contracts. One worker whom I spoke to in Glasgow just this week said that, since 2017, he has been on a procession of fixed-term contracts, sometimes being out of work for six months at a time. He told me:

"There is a generational layer of academics stuck in a hugely disruptive cycle of short-term employment and unemployment; a precarious limbo that denies us dignity and a basic quality of life."

No wonder these workers are angry—they have every right to be. This is not only an assault on individuals, but a war on hard-won collective basic employment rights—a war without honour.

When I speak to these striking workers on picket lines at University Avenue in Glasgow, at the Riccarton campus of Heriot-Watt University and at Moray house in the Canongate on the way down to this Parliament, they tell me not just how angry they are but how determined they are as well. That is the message for their employers: these people are angry and determined.

It is also the message for this SNP-Green Scottish Government. Last November, the joint trade unions—the UCU, Unite, the Educational Institute of Scotland, the GMB and Unison—wrote to the Cabinet Secretary for Education and Skills to highlight

"successive below inflation pay impositions ... unsafe workloads ... pay inequality"

And

"insecure contractual arrangements".

They concluded:

"While the trade unions believe universities in Scotland can and should be doing more to resolve these issues, there can be no doubt that consistent underfunding is a major contributory factor to the various disputes and unresolved collective issues in the sector."

My message—and the message of a new generation of outstanding trade union leaders such as Jo Grady and Mary Senior, who joins us in Parliament today—is clear. We are now six months on, and these higher education disputes and collective issues remain unresolved. As we have been reminded this morning by the EIS, whose members are protesting outside this Parliament, they have now been joined by unresolved disputes and collective issues in our



further education colleges, too. The situation in our colleges and universities is at crisis point.

The minister for further and higher education needs to step in, the Cabinet Secretary for Education and Skills needs to step up, and the First Minister needs to wield the authority of her office, exercise the leverage of the Scottish exchequer and act decisively to get these disputes and these injustices resolved once and for all.

13:22

**Katy Clark (West Scotland) (Lab):** I congratulate Maggie Chapman on securing this important debate and on her opening contribution, which set the issues out very clearly. There is no question but that colleges and universities in this country are in crisis, and I speak today in support of the UCU and, indeed, the EIS-Further Education Lecturers Association college lecturers, who are also on strike in the face of a real-terms pay cut and have been demonstrating outside the Parliament.

As I said earlier, the Scottish Government provides over £1 billion a year to universities, so it cannot wash its hands of these issues and simply expect the institutions to behave autonomously and in a fair and benevolent way. The Scottish Government has the ability and the responsibility to intervene. There must be a clear expectation that universities in receipt of public money—taxpayers' money—will treat their staff fairly and act as good employer. As it stands, that is not happening.

Since 2009, staff pay in the university sector has fallen by an astonishing 25.5 per cent in real terms, and employers continue to offer insulting real-terms pay cuts to staff. Around a third of all university staff in Scotland and across the United Kingdom are on precarious fixed-term contracts. I have been told that staff in some institutions in Scotland have been on such contracts for decades; indeed, I have been advised that, for some, it has been more than 30 years. The average working week in higher education is now more than 50 hours, with 29 per cent of academics averaging more than 55 hours, and in a UCU Scotland survey in July 2021, 76 per cent of respondents reported an increased workload during the pandemic.

There are several issues that the Government has a responsibility to address. The level of casualisation in the sector is alarming. It is not good enough simply to say that Governments cannot intervene. The Scottish Government needs to ensure that the Scottish Funding Council sets out guidance stating that temporary or fixed-term contracts should not be used. It needs to intervene in the current dispute, to bring the parties together

and set out very clearly what the Government expects to happen. The Scottish Government needs to be at the forefront of demanding and pushing for change in the sector. That means that fair work should be the minimum standard for universities accessing Scottish Funding Council funding. The minister needs to intervene to make sure that that happens.

The Scottish Government needs to ensure that all staff in the sector are part of national collective agreements and bargaining with trade unions. Those are vital steps that the Scottish Government needs to take in a leadership capacity to ensure that we have dignity, that the workers are treated fairly and that our money is appropriately spent.

13:26

**The Minister for Higher Education and Further Education, Youth Employment and Training (Jamie Hepburn):** I, too, thank Maggie Chapman for lodging the motion for today's debate. I recognise the significant interest in the issue; it is entirely appropriate that Parliament is debating the matter. I echo the points about the importance of the contribution of our universities and the people who work in them, which Maggie Chapman set out.

Michael Marra mentioned the research excellence framework results that were published today, which are, by anybody's estimation, a further demonstration of the world-leading research that is conducted in Scotland. To respond to Mr Marra's point, I say that the research excellence grant allocations will be made clear in due course.

**Michael Marra:** Does the minister recognise that there are worrying trends in the figures? For example, of the 10 top universities in Scotland, the positions of eight have declined relative to universities in the rest of the UK. Is not the causal reality of that the significant cuts in real terms to the unit of resource for higher education and the research excellence grant over recent years?

**Jamie Hepburn:** Various factors contribute to movement in the rankings. My point—I am sure that Mr Marra will agree with it—is that, across the piece and across the country, we have seen significant improvements for most of our institutions, which is something that we should celebrate.

I am conscious of the context of the past couple of years, which have been very challenging for people who work and study in our higher education sector, as they have been for all sectors. I am enormously grateful for the resilience that has been demonstrated by the higher education sector throughout the period.

I share the concerns that have been expressed regarding the on-going disputes in the higher education sector over a range of issues. As several members have mentioned, the Scottish Government has a responsibility to intervene. I do not shirk that responsibility; we are not standing idly by on the sidelines.

Maggie Chapman suggested that the Scottish Government should be urging universities to remain at the negotiating table and continue to contribute to the process. I have made that point every time the matter has been raised in Parliament and I have put the point directly to university management. I meet unions and university management regularly and my clear call to all parties is to continue to negotiate to resolve the dispute.

Incidentally, I note that the situation is not specific to Scotland. The subject of negotiation and dispute is a UK-wide scheme, so it cannot be resolved in Scotland alone.

**Michael Marra:** Will the minister take an intervention?

**Jamie Hepburn:** Kaukab Stewart made the point that the Scottish Government has a locus in relation to intervening, and we should offer clarity in that regard. The fundamental point—one that everyone surely agrees with—is that the Scottish Government is not directly a party in the negotiations, and I do not think that anyone is seeking for us to become one. That is where the difficulty exists; we are not directly involved in the negotiations, because universities are autonomous institutions. I am not aware that anyone is suggesting that they should be anything other than that so, on that basis, it is for the universities and their workforce representatives to come together to resolve matters. However, I will, of course, meet and work with those parties to assist them and urge them to resolve the process.

**Michael Marra:** Will the minister take an intervention?

**The Deputy Presiding Officer:** I do not think that the minister is taking an intervention.

**Jamie Hepburn:** I was about to give way. I just wanted to finish the point that I was making.

**The Deputy Presiding Officer:** Okay. I just did not want Mr Marra to stand about endlessly waiting.

**Jamie Hepburn:** He need wait no longer.

**Michael Marra:** I greatly appreciate being put out of my misery. I thank the minister for giving way.

Does the minister recognise that, although we might not be calling for the Government to be at

the table in the negotiations, there is a causal link in relation to the Government's funding decisions?

Does he also recognise that, as my colleagues have laid out, the Government could make direct interventions through the Scottish Funding Council, which sets the terms against which public money is spent in the institutions? Requirements can be included through outcome agreements and on-going discussions with universities on a contractual basis in relation to what is required to be delivered using taxpayers' money. The minister has a direct role in mandating the Scottish Funding Council to act.

**Jamie Hepburn:** The fundamental point comes down to the process and our ambitions for fair work. I used to be the Minister for Business, Fair Work and Skills, so I take the fair work agenda very seriously. I recognise that enabling workers having their voices heard—in this instance, through trade union recognition—is central to fair work.

**Members** *rose*.

**Jamie Hepburn:** If members will allow me to finish my point, I will gladly give way.

There should be an appropriate and effective avenue by which parties can come together. In that sense, the Scottish Funding Council, in line with the Scottish Government, has a role to play in furthering the fair work agenda, which we take seriously. We engage regularly with our institutions to ensure that our fair work first criteria are embedded in our workplaces. I say, with respect, that having a fair work framework and fair work practices provides no guarantee that we will not sometimes end up with disputes between workers and management. They might still happen, even in a fair work context. It is about ensuring that the platform exists for fair negotiations to take place.

I am not sure which members wanted to intervene, but I am happy to give way.

**Maggie Chapman:** I thank the minister for his comments about fair work. Does he think that it is acceptable that women and younger staff are most affected by the pension cuts? The plans bake in discrimination. Deficit recovery payments to repay a deficit that does not really exist any more will require cuts to pensions, which will most likely affect younger workers and women.

**Jamie Hepburn:** I would be concerned about any disproportionate impact. Those legitimate issues should be viewed through the prism of the negotiations. I am able to discuss such matters directly with Universities Scotland and trade unions, and I will do so. Ultimately, the inescapable point is that universities and their workforce representatives require to come

together to resolve the issues. I think that we all agree that long-term industrial action is in no one's interests, although I agree that workers have a fundamental right to undertake industrial action, if they feel that it is necessary.

What we want to, and must, see is a coming together, because there is a continued need to negotiate. That is my message, and it should be the Parliament's message. We want the dispute to be resolved.

**The Deputy Presiding Officer:** That concludes the debate. I suspend the meeting until 2 pm, which is very soon.

13:34

*Meeting suspended.*

14:00

*On resuming—*

## Portfolio Question Time

### Education and Skills

**The Presiding Officer (Alison Johnstone):** Good afternoon. The next item of business is portfolio question time. In order to get in as many members as possible, I would be grateful for short and succinct questions and responses.

### Gender-based Harassment

1. **Fiona Hyslop (Linlithgow) (SNP):** To ask the Scottish Government what additional action it plans to take to tackle gender-based harassment in schools, in light of its response to the report "Misogyny—A Human Rights Issue". (S6O-01070)

**The Cabinet Secretary for Education and Skills (Shirley-Anne Somerville):** A range of actions is being taken to address gender-based violence and harassment in schools. Alongside relationship and sex education, there are a number of targeted programmes to support positive behaviour and relationships. Those include mentors in violence prevention, to tackle gender stereotyping and attitudes that condone violence against women and girls; Equally Safe at School, to tackle gender-based violence; and Fearless, to educate and support pupils in speaking up about crime. The gender-based violence in schools working group is developing a national framework to ensure consistent messaging on gender-based harassment for everyone who works with young people.

**Fiona Hyslop:** The Scottish Government will be aware that organisations such as Girlguiding Scotland and Zero Tolerance have called for the introduction of more specific gender equality and consent-based sex and relationships studies as part of curriculum for excellence. What progress has the Scottish Government made in addressing those calls for preventative measures? If such implementation is to go ahead, what support and resources can the Scottish Government offer to schools and local authorities in the meantime, to ensure that teachers are confident in dealing with complaints or reports of sexual harassment in their schools?

In addition, it was not clear from the original answer what measures are being taken by the Government, in addition to those that the cabinet secretary has just described, in response to the report "Misogyny—A Human Rights Issue".

**Shirley-Anne Somerville:** I thank Fiona Hyslop for raising what is a very important issue, and I am

grateful to the organisations that she mentioned for engaging with the Scottish Government.

Obviously, the Government wants all children and young people to develop mutually respectful, responsible and confident relationships. We are committed to ensuring that all children and young people receive high-quality relationships, sexual health and parenthood education, so that pupils learn about safe and healthy relationships. Shortly, we will bring forward a consultation on revised RSHP teaching guidance, which will provide a focus on learning and teaching about gender equality and consent.

In the meantime, and alongside the initiatives that have been mentioned, Education Scotland's national improvement hub contains resources to support professionals. As part of our shared policy programme with the Scottish Green Party, we are also committed to exploring what further actions are required beyond those that are already planned. That includes providing guidance for schools.

**Martin Whitfield (South Scotland) (Lab):** On 16 December 2021, I raised this matter with the First Minister, and she confirmed that she would look into local authorities' responsibility for the wi-fi in schools, over which much of the bullying and misogynistic attacks take place. Will the cabinet secretary follow up on that to find out the Government's current position on that responsibility?

**Shirley-Anne Somerville:** In the past, we have said clearly that online bullying should not be treated any differently from face-to-face bullying. It is the responsibility of local authorities—rather than that of the national Government—to address the use of wi-fi in their schools. However, the Scottish Government is certainly keen to work with local government and the organisations that I spoke about to see what more needs to be done to tackle all types of harassment in schools—in particular, sexual harassment bullying. We are determined to work with local authorities and other partners on that, both online and offline.

### **Race Equality and Anti-Racism in Education**

**2. Foysoil Choudhury (Lothian) (Lab):** To ask the Scottish Government what the expected timetable is for the race equality and anti-racism in education programme to report. (S6O-01071)

**The Cabinet Secretary for Education and Skills (Shirley-Anne Somerville):** The Scottish Government is fully committed to addressing the issues that continue to perpetuate racism in schools. The race equality and anti-racism in education programme's ambition is to create real, tangible and lasting change, rather than to issue one single report. Effecting systemic change takes

time and, as such, working in partnership with stakeholders on the development and delivery of the programme is a long-term commitment.

As part of that process, we are working with stakeholders to develop a shared vision and a set of actions, with realistic timescales and milestones attached. Those will be key to providing a clear idea of when the ambitions can be met. Subject to stakeholder agreement, we expect that the programme will be published this summer and will be underpinned by an evaluation framework for the REAREP, which is also being developed in partnership with stakeholders.

**Foysoil Choudhury:** The programme that the Scottish Government has set up is important, and I applaud the work that has been done so far. However, we cannot afford to miss the opportunity to ensure that the curriculum itself is inclusive and representative. Will the cabinet secretary reassure me that curriculum reform will be given equal weight to other considerations?

**Shirley-Anne Somerville:** I absolutely confirm that curriculum reform is one of the four key areas that the REAREP is looking at and will act on. There has been progress to date, and, as I said, we will publish more information about the programme in the summer, if stakeholders agree.

We are already seeing some examples. For instance, Education Scotland has begun to roll out the building racial literacy programme, and the national race diversity lead has been appointed by the General Teaching Council for Scotland. In addition, Education Scotland is developing a whole-school resource for practitioners, "Promoting Race Equality and Anti-racist Education".

I confirm that reform of the curriculum is a key strand of the work, which we will publish details of in the summer.

**Kaukab Stewart (Glasgow Kelvin) (SNP):** Will the cabinet secretary join me in recognising the work of local authorities such as Glasgow City Council, which has passed a motion to support decolonisation of the curriculum and has produced a modern studies guide for its schools?

Will the cabinet secretary provide an update on how the Scottish Government is supporting all local authorities to ensure that Scotland's colonial history is acknowledged and reflected in the curriculum?

**Shirley-Anne Somerville:** I commend local authorities—including Glasgow City Council, as recognised by Kaukab Stewart—for the work that they are already doing to prioritise anti-racism education. We are drawing on such good ideas and on the good practice that is emerging in different parts of Scotland as part of the race

equality and anti-racism in education programme. As I mentioned to Foysol Choudhury, the programme includes curriculum reform workstreams, which involve reviewing the curriculum for excellence framework. That is an important piece of work, and I commend Glasgow City Council and other local authorities for being so proactive in their work on the issue.

### Circular Economy

**3. Maurice Golden (North East Scotland) (Con):** To ask the Scottish Government what discussions the education secretary has had with the circular economy minister regarding progress to enhance education and skills for a circular economy. (S6O-01072)

**The Minister for Higher Education and Further Education, Youth Employment and Training (Jamie Hepburn):** I last met the Minister for Green Skills, Circular Economy and Biodiversity on Wednesday 4 May to discuss the role of the tertiary sector in promoting and supporting the development of, among other things, the skills that are required for the circular economy.

**Maurice Golden:** The Scottish Government promised to recruit circular economy teaching champions. As of 2020, fewer than 100 out of a total of 24,000 secondary teachers were involved. Does the minister accept that, after eight years, that progress is not good enough? What steps are being taken to train more circular economy teaching champions?

**Jamie Hepburn:** What the member has laid out is progress, but we would like to see more. I absolutely recognise the need to ensure that young people are equipped with the necessary understanding of the world around them and, in relation to my area of activity, a deep understanding of the skills that they will require in order to take advantage of the opportunities that will exist through the circular economy.

The work that the member mentioned will continue, and I recognise that we need to do more in that regard. If the member wants to write to me, I would be happy to get back to him with further details.

**The Presiding Officer:** Question 4 has been withdrawn.

### Subject Choice (Secondary Schools)

**5. Oliver Mundell (Dumfriesshire) (Con):** To ask the Scottish Government what action is being taken to increase subject choice for secondary pupils. (S6O-01074)

**The Cabinet Secretary for Education and Skills (Shirley-Anne Somerville):** Young people

should be able to access a range of pathways that meet their needs, abilities and aspirations. Schools and local authorities are encouraged and supported to consider innovative ways to ensure that a wide choice of courses is available to their learners. It is for them, working together with partners, to plan course choices in their areas.

**Oliver Mundell:** That is all very well and good, but I would like to know what the cabinet secretary has to say to my constituent who wrote this:

“As a parent of an S3 who is picking her options for next year, I am very concerned at this narrowing of the curriculum and education generally at such a young age. We have relatives in England of the same age as my daughter and they will be sitting ten exams next year. It just doesn’t compare and surely leaves our children here in Scotland lacking a wide and rounded education and massively disadvantaged against their peers in other parts of the UK and, indeed other parts of Scotland where children still get to sit at least eight subjects at Nat 5 level.”

Does the cabinet secretary agree that there should be a minimum number of subjects offered to all pupils in Scotland?

**Shirley-Anne Somerville:** One of the important issues that was raised by the Organisation for Economic Co-operation and Development, quite rightly, was the importance of having a discussion about the breadth and depth of education within different years of the high school setting.

Oliver Mundell might think that the recommended approach is that a young person should sit 10 exams, and that that is the good practice that we should be aiming for. However, I again point to the OECD’s recommendation that Scotland should have a discussion about ensuring that children and young people have a broad and deep education, and that we need to get that balance correct.

Quite rightly, it is up to schools and local authorities to ensure that they design curriculums that are right for them, right for the children and young people and right for the communities that they are there to serve.

We should have that national discussion, but it is important that we leave it to local authorities to make final decisions that are right for the children and young people they know best.

**Michael Marra (North East Scotland) (Lab):** The cabinet secretary knows that members are greatly concerned about the narrowing of the curriculum in terms of the qualifications of young people and the experiences that young people seek.

In relation to the broad experience of senior phase pupils, I was greatly concerned by reports this week relating to the Scottish Government shelving plans for a replacement for the Erasmus scheme. In Wales, the replacement model is

reaching out, in particular, to young people in the later years of schools who have missed out on experiences in the past couple of years. Can the cabinet secretary confirm when we will see plans for a replacement scheme in Scotland?

**Shirley-Anne Somerville:** As has been made clear on many occasions by the Minister for Higher Education and Further Education, Youth Employment and Training, who is right beside me, we are discussing the scheme with stakeholders. It is important that we have those discussions in depth in order to ensure that we make decisions that are appropriate.

Clearly, we are in a situation that we deeply regret. It is one that, had Scotland not been forced out of the European Union and forced to deal with Brexit, we would never have got ourselves into.

**Willie Rennie (North East Fife) (LD):** The cabinet secretary still cannot explain why, last year, Wales was able to put in place a replacement scheme with a £65 million fund. Many students from Wales and from other countries are able to benefit from that scheme right now. However, Scotland, under the Scottish National Party, has been unable to move an inch. When will we get a replacement for Erasmus? If Wales has done it, surely Scotland can.

**Shirley-Anne Somerville:** The Scottish Government has looked carefully at what has been introduced in Wales, as Mr Rennie would expect us to. That is part of our discussions with stakeholders, and we will, of course, make announcements on a replacement scheme in due course.

### Fair Work Conditions (Funding)

**6. Maggie Chapman (North East Scotland) (Green):** To ask the Scottish Government what its position is on whether industrial relations in the college sector could be improved by applying fair work conditions to funding provided via the Scottish Funding Council. (S6O-01075)

**The Minister for Higher Education and Further Education, Youth Employment and Training (Jamie Hepburn):** I expect the Scottish Funding Council to continue its progress in adopting the guidance set out in “Fair Work First”, both as an employer and through attaching fair work first criteria to its grants, procurements and other funding.

**Maggie Chapman:** Dundee and Angus College staff and others have been in touch with me about management delaying negotiations and causing additional strike action and disruption to students by refusing to meet for over one and a half weeks. There are concerns that that is an attempt to wear the unions down and anger at the disproportionate bloating of management and rising management

pay compared with that of lecturers. If principals’ pay had increased in line with lecturers’ pay, it would be around £90,000 a year rather than £164,000 a year. Does the minister agree that it is unacceptable for college management to delay talks to grind the unions down, which has resulted in another week or more of strikes and disruption? Will he instruct college management to get back around the table until a fair pay deal is reached? Should we limit the pay rises of management to ensure that staff and student support services do not suffer?

**Jamie Hepburn:** On the fundamental point of the question, which is ensuring that both parties are at the table, I have emphasised that previously, publicly in the chamber and directly with College Employers Scotland and Colleges Scotland. I have no hesitation in saying to them and, indeed, to the unions that I want to see them around the table negotiating in a timeous fashion and, I hope, being able to resolve the issue together.

**Stephen Kerr (Central Scotland) (Con):** Maggie Chapman is right, of course. The people who suffer most in the situation are the students, who are having their studies, assessments and final tests massively disrupted. That creates huge uncertainty for them and about their futures. However, it does not help that the college sector in Scotland has had a core budget cut from the Scottish National Party at the very moment when that sector should be at the heart of a Scottish economic transformation. How many jobs in the college sector will be lost because of that SNP cut?

**Jamie Hepburn:** What Mr Kerr omitted to say, of course, is that the Scottish Government is dealing with a 5.2 per cent real-terms reduction in funding as a consequence of United Kingdom Government decisions. I do not know whether he deliberately omitted that fact or neglected to say it—perhaps he has forgotten that. The decisions that we have taken this year have not only been about maintenance of the core college sector resource. There has been an additional £10 million through the young person’s guarantee, an increase of £41 million in capital funding, and £5 million capital funding for digital poverty, for example. We are stepping up and supporting the sector and students.

### Neurodiversity (Support)

**7. Karen Adam (Banffshire and Buchan Coast) (SNP):** To ask the Scottish Government what progress has been made with regard to supporting pupils with neurodiverse conditions. (S6O-01076)

**The Cabinet Secretary for Education and Skills (Shirley-Anne Somerville):** We are

committed to ensuring that children and young people, including those with neurodiverse conditions, get the support that is needed to reach their full potential. Last year, we published our updated additional support for learning action plan and progress report, to deliver the Morgan review recommendations. We will publish a further update in the autumn. We also published last year our progress report on the autism in schools action plan. The majority of actions are complete, but we acknowledge that there is more to do to improve the support offered to neurodiverse learners. We continue to engage with partners to take that forward.

**Karen Adam:** I have met people who feel that there is gatekeeping to help and support and a lack of understanding of neurodiverse conditions. Either a behaviour issue or an educational issue must be noted before support is offered. However, many neurodiverse people can pass or even thrive in academic and social situations due to masking. That can have a profound impact on many aspects of their lives. Can the Scottish Government give assurances that the many aspects of neurodiverse conditions, such as eating disorders, chronic pain, anxiety, depression and vulnerability to manipulation and bullying, will be given the focus that they deserve?

**Shirley-Anne Somerville:** I can absolutely reassure Karen Adam that, in education, a formal diagnosis is not required for a child or young person to receive support with their learning. If a child or young person needs additional support for any reason, including the circumstances that have been mentioned, the education authority has a duty to identify, provide for and review that support.

I am aware of the issue of the masking of autism symptoms, particularly by young girls, and I would be happy to meet Karen Adam to discuss that if she wishes to go into it in further detail.

**Carol Mochan (South Scotland) (Lab):** The mental wellbeing of pupils with neurodiverse conditions should be of paramount importance. How does the Scottish Government support that in the classroom setting and—this is important—in extracurricular activities to ensure that our schools are as inclusive as they can be and that they provide much-needed support and opportunity?

**Shirley-Anne Somerville:** The member raises a very important point about support in the school setting and for extracurricular activities. I spoke in my original answer about the autism in school action plan, and there is also an autism toolbox, which is a free online resource that has been developed and is being hosted by Education Scotland to support the inclusion of autistic learners. If there are particular circumstances or particular constituency issues that the member

has in mind, I would be happy to receive further details of those in writing.

### **Closing the Attainment Gap**

**8. Annie Wells (Glasgow) (Con):** To ask the Scottish Government whether it will provide an update on what progress it has made in closing the attainment gap among school pupils. (S6O-01077)

**The Cabinet Secretary for Education and Skills (Shirley-Anne Somerville):** Closing the poverty-related attainment gap remains a key focus of the Scottish Government and speaks to our wider mission to reduce child poverty. Over the course of the previous parliamentary session, there was demonstrable progress on a number of long-term measures to close the poverty-related attainment gap, with pre-pandemic attainment gaps in literacy and numeracy in primary schools narrowing.

Covid-19 has made our ambition of achieving equity in education more difficult, but our increased investment of £1 billion in the refreshed Scottish attainment challenge programme is empowering local authorities, headteachers and teachers to identify evidence-based approaches that are right for the children and young people in their schools, to tackle the attainment gap.

**Annie Wells:** The attainment gap remains stark—it is at its highest level since 2017—and, despite the First Minister's ambitious rhetoric, it is frustrating that evidence continues to point to education not being this Government's number 1 priority. Does the cabinet secretary agree that, following years of damaging cuts to local government funding, councils and schools have one arm tied behind their back as they work to close the attainment gap?

**Shirley-Anne Somerville:** I again point to the £1 billion-worth of expenditure on the Scottish attainment challenge, in addition to the local government settlement. I also point out the 3,500 additional teachers that the Scottish Government will fund. We already have 2,000 more teachers than we did pre-pandemic.

The Government has taken and will continue to take action to tackle the poverty-related attainment gap. We were making progress before the pandemic, and I am sure that we will see more progress with the refreshed Scottish attainment challenge funding, including the more than £500 million that is going directly to our headteachers, who have been empowered through our system.

**Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP):** Does the cabinet secretary agree that, since the Scottish National Party Government formed, in 2007, Scotland has the highest pound-per-pupil spend in the United Kingdom and that

attainment and the number of pupils who go on to positive destinations have improved? The figures for East Ayrshire and South Ayrshire, both in my constituency, are 95.7 and 98.4 per cent respectively. Does the cabinet secretary also agree that that is down to the SNP Government's funding to reduce the poverty-related attainment gap, to give it its full title, and empower schools and teachers, who know their pupils best? That is in sharp contrast to the UK Government's colossal failure of a tutoring scheme. It is clear that only the SNP can be trusted to give children the best opportunities that we can against a backdrop of continuing Tory austerity and the spiralling chaos of the cost of living crisis.

**Shirley-Anne Somerville:** *[Interruption.]* Mr Kerr may not like that—he comments from a sedentary position. He probably did not like the results of last week's local government elections, which proved that the Scottish people have once again put their trust in the Scottish National Party at national and local level, because they see the action that is being taken on the issue.

Elena Whitham is right to point to our work across Government to tackle child poverty and the cost of the school day. That includes the extension of free school meals and the Scottish attainment challenge, which I mentioned in my original answer. It is important that the Government has taken and will continue to take action on the issue.

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

## Cladding Remediation

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

The next item of business is a statement by Shona Robison on an update on the cladding remediation programme. The cabinet secretary will take questions at the end of her statement, so there should be no interventions or interruptions.

14:25

### **The Cabinet Secretary for Social Justice, Housing and Local Government (Shona Robison):**

I want to provide members with an update on the work that the Scottish Government is carrying out to identify and remediate unsafe cladding and, specifically, our single building assessment pilot, which we introduced in 2021.

This has not been an easy process for anyone. The Grenfell tower tragedy shocked us all, and it highlighted that many people could be living in buildings that pose a clear risk to their safety. That risk was never commonly understood by developers, lenders, building insurance firms or even surveyors and fire engineers.

Overcoming that breakdown in shared knowledge and systems about what safety means has been central to our learning, and I will share how we plan to use that learning to help home owners. I understand how stressful and frustrating a time it has been for home owners, and I am grateful to them for their involvement with us. I also want to reassure people that I expect the vast majority of buildings to be found to be safe.

I know that, for many home owners, progress has not been quick enough, but we have to understand the extent of the problem in order to fix it. The purpose and approach of the single building assessment, which was a recommendation of our expert building and fire safety ministerial working group, is to carry out a comprehensive inspection of whole blocks of domestic residential buildings, looking at fire safety and suitability for mortgage lending. That is a free assessment, with no cost to property owners.

Single building assessments—or SBAs—identify what needs to be mitigated or remediated on a building-by-building basis, in line with the most current building standards. That includes the more stringent requirements that were laid last month and that, in effect, ban all combustible cladding on relevant buildings. Our initial approach for the SBA pilot involved giving grants to home owners, typically through an intermediary such as a property factor. Although that approach has worked, it came at a high cost in terms of time and demands, particularly on home owners. The process was slower than we would like, and it is complex. The spend on surveys last year as part



of the pilot amounted to £241,000. We have assessed the pilot and have concluded that the method requires to be changed as we scale up to a national programme.

I specifically thank the residents in the 26 buildings who are participating in the pilot surveys and also the home owner associations, factors, and others who have helped to shape the process and our understanding of how best to deliver at scale. I am clear that the pilot has been necessary, but, as I have said, the timescales inherent in the initial method were proving too long and onerous for those who were not familiar with such a technical process.

I can therefore inform the Parliament that I have taken the decision to alter our method to allow us to scale up and expand the programme. Using powers and procurement tools that are available to the Scottish Government, we will now begin offering SBAs directly. That means that the Government will take on the role of procuring surveyors and fire engineers to carry out assessments of buildings. That takes away the burden on home owners or the need for factors to move beyond their traditional role, which is managing common parts. The approach will remove several months from the process of completing a lengthy and technical application, and it will simplify the commissioning of survey work. Importantly, it will allow many more buildings to be brought into the programme at the same time, which will allow us to scale up our programme.

As a result of that change, I can confirm that every block in the pilot that has not yet submitted a full application under the previous approach has been written to with the offer of a directly procured SBA. I also confirm that, from today, we will begin writing to more than 80 unique blocks that submitted an expression of interest last year, in order to invite them on to the programme through a new and simplified application process.

To achieve the increase in pace, I encourage qualified fire engineers and surveyors to be ready to meet the demands of the programme of work. We have already begun the process of placing tenders for single building assessments with public contracts Scotland and we ask people to register and be prepared to bid.

From 2023, we will invite all remaining privately owned high-rise buildings—about another 100 buildings—into the survey programme. We will contact them shortly to explain the timescales and process.

Our programme of surveys is important for today's home owners and for tomorrow's, too. As is set out in our programme for government, by the end of this parliamentary session, we will

introduce a register of safe buildings. We are already working with the key institutions that will need to have access, such as insurers, mortgage lenders and the fire service, as well as home owners. That measure will help to overcome a key difference between our tenure system and that in the rest of the United Kingdom—the absence of a single building owner. Vitality, it will offer assurance, to those who need it, that a building is safe.

I now turn to the UK Government's recent announcement on a developer fund. From the start, the Scottish Government has engaged in good faith with the UK Government on its approach to the building safety programme. With my Welsh counterpart, with whom I have worked closely on the issue, I have written a number of times to UK Government ministers. Only last week, I met Lord Greenhalgh to raise my concerns about the way that the UK Government has fallen short when it comes to basic commitments on issues such as collaboration and transparency, after saying from the outset that it wanted a four-nations approach.

Instead, we have had little information and sudden announcements, and those announcements have increasingly focused on fixing problems in England only. It remains the case that the UK Government's approach of tackling key issues only in England benefits from powers that are available only at a UK level, such as corporation tax, which has been used to tax UK-wide residential property developers.

However, we continue to explore whether any elements of the UK developer fund might still be applicable on a four-nations level, such as extending the scope of any legal agreement that has been entered into between the Department for Levelling Up, Housing and Communities and the big Scottish developers of Scotland's buildings.

The terrible tragedy of Grenfell tower exposed the risk that many tall buildings might be clad in materials that make the consequences of fire much worse and the cost of remediation huge. I therefore move to the issue of funding. We received £97.1 million in consequential in 2021-22, and the Government is committed to ensuring that every penny of that and any additional funding that is received for the programme will be invested in assessing buildings and making unsafe buildings safe.

However, further changes in UK Government policy mean that we cannot be 100 per cent sure about what further funding might be received in the future. The UK Government faces the same issues that we do with assessment and remediation, yet the scale of cladding issues in England is not matched by the funding that has been identified or committed by the UK

Government. That creates an issue for Scotland, because we get the Barnett consequential only when the UK Government actually spends the money. By short-changing England, the UK Government is therefore also short-changing the devolved Governments.

We have estimated that we might get associated funding of around £300 million as a share of already committed UK spending on cladding, as is set out in HM Treasury's spending review, which was published last year. I reiterate that our intention is to spend any associated funding that we receive on assessment, safety and remediation so that we adequately ensure the safety of residents and support home owners over the lifetime of the programme.

Given the complexity and scale of the issue, those resources might not be enough, but that will not prevent us from doing what is right and necessary. We will make our resources go further by working collaboratively with housing developers, the finance industry and home owners in order to fix the issue properly and fully from the outset.

I now turn to our engagement with the house building sector. It has become clear that, even with the possible joint approach with the UK Government on the legal contract behind the pledges, practically, that would impact only on around 12 developers operating in Scotland. That is a fraction of the total, because most of them are small and medium sized. I am therefore pleased to inform Parliament today that Homes for Scotland, the house building members body, has agreed to work with the Scottish Government to develop a Scottish safer buildings accord with its members and the broader sector. Together, we will identify fair and workable solutions for all.

I see no reason why a developer would not commit to doing in Scotland exactly the same as it has agreed to do in England as part of the UK Government's pledge. Developers must play their part in making unsafe buildings safe, wherever they are. I have met a number of developers in the past few days, and more meetings are to come as we reach out widely to build our accord with those who are affected by unsafe cladding. I am pleased to say that many major developers want to do what is right, and discussions have been co-operative and collaborative.

In the coming weeks, we will work together on the fine detail of the accord and will be involving home owners in that work. It is my clear expectation that, where developers that are linked to buildings with problematic cladding are identified, they will fund remediation. That will ensure that, when public funds need to be spent, we can use them to focus on buildings and works

for which a developer cannot be identified or no parent developer exists.

The creation of our accord with the house building sector and home owners will form the basis of a way to address each building's needs. However, I want to make it clear that, if required, I will make full use of the powers that are available to us to bring parties to the table—including, if necessary, legislation.

I hope that this update has been helpful to members and to those who are affected by the issue. I look forward to continuing to update Parliament as we make further progress with this important programme of work.

**The Presiding Officer:** The cabinet secretary will now take questions on the issues that were raised in her statement. I intend to allow around 20 minutes for questions, after which we will move on to the next item of business. Members who wish to ask a question should push their request-to-speak buttons now.

**Miles Briggs (Lothian) (Con):** I thank the cabinet secretary for advance sight of her statement.

The Scottish Government began carrying out free single building assessments only in August 2021. We know that, by then, many home owners had already paid for safety assessments out of their own pockets. I will ask a couple of questions with regard to home owners who have been so desperately affected during this time.

What plans do ministers have to cover the costs that have already been incurred for work such as that which the cabinet secretary has announced the Government will cover?

Secondly, home owners who are being prevented from moving or obtaining mortgages due to their flats being covered in potentially combustible cladding are seeing their properties being valued at zero. What discussions has the Government had with the banks, with regard to mortgages, and with the insurance industry, with regard to affordable insurance, for home owners who are in those properties? None of those issues were covered in the cabinet secretary's statement, but they are really important for property owners.

**Shona Robison:** We will speak to home owners about any payments that they have already made in relation to assessments. I know that officials have already been engaging with some home owners on that. We will continue to do so, because it is important.

Let me be clear about the reason why the single building assessment is so important. It was launched only last summer because a lot of work had gone into addressing the very issues that Miles Briggs describes. That was so that the single

building assessment would have the confidence of the sector and of lenders and financial institutions. That is important because we expect that the fact that a single building assessment has been done, with the remediation work being identified, will in itself provide mortgage lenders with confidence that will enable people to move their properties on, if that is what is required. That shows the importance of getting the SBA right and getting it recognised, so that things can go forward.

Many of the issues can be captured in the accord, in order that we can move forward and ensure that home owners are fully briefed and informed.

Miles Briggs also mentioned insurance, which is reserved to the UK Government. However, we have been discussing with the United Kingdom Government the need for insurance issues to be clarified. I have received a letter from Michael Gove just in the past few days, in which he said that the UK Government is hoping to make progress on insurance over the coming months. I know that it is an issue of great concern to people, so I am happy to perhaps arrange a cross-party briefing at which more detailed information on the issues can be gleaned, if that would be helpful.

**Mark Griffin (Central Scotland) (Lab):** I am grateful for advance sight of the cabinet secretary's statement. The pilot has compounded residents' stress and worry about the safety of their buildings, some of which are currently valued by financial institutions as being worthless. Householders have struggled to find qualified and competent assessors; the Government should have offered a proper service from the start. As happens all too often, Government schemes are set up in such a way that they push work and stress on to householders. The pilot has shown that that approach will not work. Today, the Government has announced a delay that means that many more householders will have to wait until 2023 for action.

Will the cabinet secretary agree to publish a timetable for the scaling and completion of the work? Will she also agree to publish a quarterly report detailing the numbers of properties assessed, the remediation works completed, and the spending of the £97 million, plus any additional funding, as it is paid out?

**Shona Robison:** I absolutely recognise home owners' frustrations. I also recognise the technical challenges and difficulties with which home owners and factors have been struggling in the commissioning of reports. That is why my statement announced a move to proactive commissioning of SBAs directly, and to harnessing the skill set that exists in Scotland. That will be tough, because we will need a lot of those skills to

be focused on the work if we are to ensure that SBAs can be taken forward at pace.

I am happy to look at setting out more detail on the timetable as far as we can. I mentioned in my statement the initial 80, then 100, buildings. That will get us way down the line of buildings that are affected by prioritising the buildings that are most at risk. I am also happy to furnish Parliament with a quarterly update on the numbers. I think that we will see over the next year a ramping up of the number of SBAs being completed. Then, of course, the remediation work will scale up.

I should also say that a lot of the buildings that are assessed through the SBA process will be found to be safe. That, in itself, will be important for the home owners.

I am happy to work with Mark Griffin. If he would find it to be of benefit and help to have a more detailed briefing on technical detail, I can offer to arrange that on a cross-party basis.

**Kaukab Stewart (Glasgow Kelvin) (SNP):** I thank the cabinet secretary for the statement and would welcome a cross-party briefing on the details.

I am concerned that, despite assurances from the UK Government that the four nations would work closely together to tackle building safety issues, the interests of the devolved nations are being ignored. Does the cabinet secretary believe that the UK Government is no longer interested in co-ordination when it comes to cladding remediation? If so, how should the Scottish Government proceed?

**Shona Robison:** Along with our Welsh colleagues, we have continually called for a joined-up four-nations approach to the issue. We thought that that would be the simplest way to move forward, given the complexity. However, a few weeks ago, the UK Government moved to what is clearly an England-only approach, despite matters such as insurance, mortgage lending and corporation tax clearly being reserved and playing a major part in the solution.

For that reason, co-ordination between the nations would be a better way forward—primarily for home owners, but also for developers. We will continue to pursue that approach with our Welsh counterparts. A four-nations meeting on building safety is due to take place later this month, at which we and our Welsh colleagues will continue to pursue those matters.

However, part of the reason for my statement and the announcement of the accord was the need to be realistic. It looks as though the UK Government is going in a particular direction of travel, which is why we have to progress and plan our own way forward to ensure that we are doing

the best by property owners when it comes to cladding remediation. The accord will be the forum in which to take that forward.

**Alexander Stewart (Mid Scotland and Fife) (Con):** Individuals who have bought flats with flammable cladding have found themselves in an unfortunate situation, with the value of their properties plummeting and insurance costs rising.

The cabinet secretary indicated in her statement that the Scottish Government is committed to ensuring that every penny of additional funding that is received will be invested in assessing buildings and making them safe. Does the cabinet secretary recognise that more might be required to support the individuals who are affected by the cladding crisis? What steps will the Scottish Government take to ensure that?

**Shona Robison:** I thank Alexander Stewart for the question. As I said earlier, the UK Government has contracted with an insurance underwriter to back the provision of a UK-wide professional indemnity insurance scheme. There has been some delay in that, but it will provide PII for fire risk assessors across the UK, which will help to move things forward.

However, we believe that the insurance for home owners issue continues to be best addressed at UK level because of the UK-wide nature of insurance institutions. I am happy to keep Alexander Stewart and others apprised of discussions about that.

All the money that we receive in consequentialials will be spent on that—every penny—but we have to spend the money wisely, which is why I was clear in my statement that I expect developers, where they can be linked to a building, to remediate the cost of that building. We want it to be done under the single building assessment so that it is done properly, once and to a standard that meets all the current requirements. That is important for home owners' assurance.

Will more money be required? Yes, it will. Obviously, the UK Government announced the building safety levy a couple of weeks ago. That is an England-only levy that will be levied through local government. We will need to look at what equivalent we need to use here to bridge any gap, because we will spend the public money on buildings for which no developer can be found. Those home owners must get the same treatment, so we want to give assurance that we will focus the public money on them. We will have to work through the Scottish safer buildings accord to find ways in which to bridge gaps.

**Joe FitzPatrick (Dundee City West) (SNP):** The expansion of the single building assessment pilot programme has resulted in properties in my constituency now being included, which was

welcomed by affected constituents in Dundee City West. However, uncertain finances could undermine progress with the SBA. Can the cabinet secretary say more about discussions with the UK Government on consequentialials? It is important that we ensure that the level of funding is sufficient to support the needs of the work that is required across Scotland.

**Shona Robison:** I was pleased to be able to support the expansion of the pilot, and I announced today that our programme will tackle the most complex buildings, increase the number of properties in the programme and remove the burden from home owners. I know that that will be of particular importance to Joe FitzPatrick and some of his constituents.

In the statement, I said that the UK Government has moved away from the work being Treasury funded and is driving towards a mixture of funding that comes through corporation tax on developers and the building safety levy. That is quite a complicated landscape of funding.

After quite a lot of digging and going backwards and forwards, we have been able to identify the additional £300 million through consequentialials. It is hard to find out how much of that is related to corporation tax money raised and how much is from the Treasury. It is very difficult to define the amount. One principle that needs to be clear is that Scotland, Wales and Northern Ireland should get their fair share of any money that is raised through corporation tax at UK level.

As I said in answer to an earlier question, we then have to find our own mechanism to bridge any gaps that we identify. The building safety levy is what is being used down south, but we will have to find an equivalent for Scotland, because that levy will not generate any consequentialials for Scotland, Wales or Northern Ireland. We will have to fill the gap ourselves.

**Pauline McNeill (Glasgow) (Lab):** I have written to the minister on many occasions about my constituents in Glasgow who welcome the fact that they have been prioritised for the single building assessment. Other constituents will have to wait until 2023. In both cases, my constituents can still not get adequate buildings insurance, which is quite dangerous.

In view of that, will the Scottish Government consider indemnifying those owners—standing behind them—while we wait for the final outcome? If the minister is confident that we will get to that point, the Scottish Government should not find that too risky.

**Shona Robison:** I am happy to continue to discuss all these issues with Pauline McNeill. The accord will give us a forum in which not just developers but home owners will be able to look at

what more we can do in the here and now. Clearly, the issue of insurance is complicated, but the good thing about the single building assessment is that, because it has been worked through with so many critical institutions, it will have the confidence of those institutions. The point at which the SBA is completed could be really important in resolving some of these matters, rather than having to wait for the remediation works to be completed. That in itself could perhaps give home owners a bit of confidence that the SBA process will unlock doors for them. I am happy to keep Pauline McNeill informed about discussions as we take them forward.

**The Presiding Officer:** Before the next question, I point out that time is tight and there are many members who would like to put a question to the cabinet secretary.

**Jackie Dunbar (Aberdeen Donside) (SNP):** Developers should, absolutely, be expected to remediate cladding on buildings that they have built, but what support is available to home owners for whose homes there is now no developer because they have stopped trading? How will the Scottish Government ensure that such buildings are assessed for any problems that have been identified or fully fixed and that there is no burden on home owners who are in need of assistance?

**Shona Robison:** I agree that developers must take responsibility and remediate buildings that they have built and are associated with. My approach is to ensure that, in the interest of home owners, we work in a positive way with developers on the matter. I expect to take that forward through the Scottish safer buildings accord.

As I said in my statement, that approach means that the public funds that we have available can be prioritised for the very buildings and works that Jackie Dunbar talks about—those without a linked developer—so that home owners are assisted in every way possible. That is the best way to make maximum use of the collective pot of money.

**Willie Rennie (North East Fife) (LD):** We are five years on from Grenfell, so it is really disappointing that the minister has come to the chamber today to declare, after a year of the pilot being in place, that it has taken too long and is onerous. Home owners have been aware of that—it has been blindingly obvious for a long time, as we have seen from the evidence that they have provided—so why has it taken so long for the Government to admit that the pilot is failing? The minister talks about using powers to compel developers and other parties to come to the table. What powers are those, and how will they be deployed?

**Shona Robison:** I do not believe that the pilot has not been a success—it has been a success in being able to test out the single building assessment. The problem has been the way in which single building assessments have been commissioned, which has been shown to be too complex and onerous for home owners and factors. That is what we have learned, which is why we are switching to a commission basis.

However, the basis of the pilot and the single building assessment is absolutely sound. The SBA will help to identify those buildings that are safe and can be given the green light, which is good. It will also identify those buildings that require remediation and what that remediation is, and will ensure that work is done to a high standard—and done once only. It will ensure that the developers that are associated with those buildings pay for and get on and do that work, and that we can support the home owners in buildings for which no developer can be found.

On Willie Rennie's final point, from the discussions that I have had with developers, I have every faith that they want to do the right thing. Every one of them that I have spoken to wants to do the right thing. I said at the end of my statement that, if some do not want to come to the table, we will look at using the powers that are at our disposal to compel them to do so, and we will consider legislating to do that if we need to. However, I do not think that we will need to do that because developers want to be seen to be doing the right thing and fulfilling their responsibilities. As I say, I will keep the Parliament updated on those matters as we go forward.

**The Presiding Officer:** I appreciate the minister's desire to provide comprehensive responses, but we are very tight for time.

**John Mason (Glasgow Shettleston) (SNP):** From the cabinet secretary's statement and her answers, it sounds as though the developers are fairly positive about what the Scottish Government is planning. Are the developers willing to work under separate schemes in England and Scotland? Do they accept that?

**Shona Robison:** Yes, they are, although it does not make it easy for anybody in this situation. It is important that developers recognise that, even though the UK Government is having an England-only focus, many of the developers are UK-wide organisations and their responsibility is to Scotland, Wales and Northern Ireland as well as to England. So far, the discussions that I have had in that space have been very positive.

**Ariane Burgess (Highlands and Islands) (Green):** I thank the cabinet secretary for advance sight of her statement. Changes to building regulations secured by Green minister Patrick

Harvie mean that combustible cladding can no longer be used on high-rise buildings, but remediation of existing buildings must be done urgently.

What are the cabinet secretary's thoughts on a safe building assessment, or an MOT for buildings in Scotland coming forward in future so that we understand the components of construction and can make sure that things are fitting properly?

**Shona Robison:** Ariane Burgess is quite right that we have recently passed building standards on this issue, but they build on what were quite robust building regulations and standards that go back as far as 2005. It is important to say that.

The safe buildings register that we have talked about and are committed to will be important for home owners and for the institutions that we have talked about in terms of mortgages and insurance. As Ariane Burgess has noted, we have committed to taking that forward.

**Marie McNair (Clydebank and Milngavie) (SNP):** The UK Government's move from the building safety fund to a pledge letter in England clearly has impacts in Scotland. Did the Scottish Government have advance sight of the April announcement? Can the cabinet secretary advise whether the work on the accord that she outlined, which has been carried out since the UK Government's announcement, will cause any issues for the planned roll-out of the cladding remediation programme?

**Shona Robison:** No, neither we nor the Welsh had any sight of the announcements that were made. They took us by surprise because, until that point, we had assumed that the work was being done on a four-nations basis, particularly around the levy. However, we are where we are, and we are determined to make sure that we look to what we can do here in Scotland.

We will continue to work closely with Wales; we have a good working relationship there. We also have the four-nations building safety summit, if you like, that is taking place later this month, at which we will continue to pursue areas in which we might still be able to work together. Essentially, however, we will have to find some of the solutions ourselves.

**Annie Wells (Glasgow) (Con):** Flammable cladding has been found on the Queen Elizabeth university hospital in my region and on the sick kids hospital in Edinburgh. Can the cabinet secretary tell us whether any flammable cladding has been used on any other Government buildings? If so, how soon can remedial works begin?

**Shona Robison:** Annie Wells raises a number of issues. We have said on a number of occasions

that we will support and work with public bodies and health boards to understand their current estates and to make sure that they have done detailed assessments and that any issues are resolved. Where issues are found, we will support those organisations with the technical expertise that they need to assess and remediate matters as soon as possible.

I will be happy to write to Annie Wells with an update on the particular buildings that she cited.

## Coronavirus (Recovery and Reform) (Scotland) Bill: Stage 1

**The Presiding Officer (Alison Johnstone):** The next item of business is a debate on motion S6M-04310, in the name of John Swinney, on the Coronavirus (Recovery and Reform) (Scotland) Bill at stage 1.

15:00

**The Deputy First Minister and Cabinet Secretary for Covid Recovery (John Swinney):** I welcome the opportunity to open the debate on the general principles of the Coronavirus (Recovery and Reform) (Scotland) Bill, and I thank committees of Parliament for their careful consideration of the bill's provisions.

With the benefit of hindsight, I think that we can all agree that our statute book was not sufficient to deal with the circumstances that we faced in March 2020. Members will recall that we required two pieces of emergency legislation in a matter of days, to provide the legislative ability to handle the pandemic.

If it is passed, the bill will put in place legislation that we consider to be necessary, proportionate and appropriate to ensure that we can respond in the future, when the circumstances require it.

The measures in the bill fall into three broad categories: powers to counter future public health threats; the embedding of practical public service reforms that have demonstrated their value, irrespective of the public health position; and extended temporary measures to help to manage the impact of Covid, specifically on the Scottish justice system. The latter two categories have largely been endorsed in the scrutiny to date, but the first has generated significant difference of opinion, and my speech will focus mostly on that issue.

For the most part, the measures in the bill across all categories already exist in temporary legislation, but they will expire in September. The bill updates and equips the statute book in sensible and appropriate ways, based on lessons that have been learned from the pandemic. The measures were consulted on as a coherent package in a full 12-week public consultation that took place between August and November last year, and the measures in the bill collectively support the Government's Covid recovery strategy and the recently updated Covid strategic framework.

I am pleased that the lead committee, having had regard to the other scrutiny committees' reports, has endorsed the general principles of the bill and has recognised that it is appropriate to

equip the statute book with powers to counter future public health threats.

**Alex Cole-Hamilton (Edinburgh Western) (LD):** The Covid pandemic caught us by surprise—that is in the nature of pandemics—and the next pandemic will catch us by surprise, too. We cannot legislate for that now. For sure, we can do preparation—we can have our civil servants draft up contingencies—but is it really necessary to legislate now to retain the draconian powers that the Government handed itself at the start of the current pandemic?

**John Swinney:** I encourage Alex Cole-Hamilton to listen to the arguments that I will develop during this opening speech, but I do not accept that there is material that we do not need to legislate for to enable us to prepare for future pandemics, because we can foresee a lot of what will emerge in that respect.

I and my ministerial colleagues have read with interest the recommendations that are contained in the various committees' stage 1 reports. Although there are some recommendations that we are not persuaded are necessary, there are places where we agree that change may be needed, and we are now actively considering appropriate amendments at stage 2.

The Delegated Powers and Law Reform Committee's report recommended that an explanation of the requirement for urgency be added when the made affirmative procedure is to be used for powers that are taken in the bill. I agree that it is appropriate to explain why regulations require to be made urgently, so the Government will lodge an amendment to that effect at stage 2. I can also confirm that my officials are working with parliamentary counterparts to develop a protocol for an expedited draft affirmative procedure, to be used in appropriate cases.

In relation to the proposed powers to modify primary legislation through future public health protection regulations—the so-called Henry VIII powers—I remain of the view that those powers are appropriate and that their use is already subject to significant safeguards. However, having considered the views of members, we will lodge amendments at stage 2 to add the further restriction that the powers will be available only when ministers make regulations under the draft affirmative procedure. That would mean that parliamentary approval would have to be in place before any modification to primary legislation took place.

**Murdo Fraser (Mid Scotland and Fife) (Con):** I am grateful to the cabinet secretary for the concessions that he has announced on the Henry VIII powers, which the committee identified as a

key area of concern. The cabinet secretary has consistently said that the Government is just trying to reflect legislation that already exists south of the border. Does he accept that the Henry VIII powers do not exist in the equivalent legislation in England and Wales?

**John Swinney:** It is my view that they do exist but that they require to be put in place with the necessary safeguards, which is what I am addressing today. If Mr Fraser thinks that I have already given ground, I encourage him to wait patiently for what is to come.

I will take some time to address a proposal that was developed in stage 1 scrutiny: that some key powers should be taken out of the bill and held in reserve or kept on the shelf for emergency enactment at a future point. I acknowledge the concerns behind that proposal and accept that the provisions in the bill as introduced did not strike the right balance between the legislative framework that we need and the necessary level of parliamentary oversight. There are three points to consider in that respect.

The first is that there remains a clear and compelling argument for ministers to have the public health protection and educational continuity powers that are in parts 1 and 2 of the bill. The statute book is currently not complete, and legislative action is required now. The public health protection powers would allow ministers not only to make regulations in a time of emergency, such as—in the most extreme circumstances—to impose a national lockdown, as we had to do to combat Covid, but to make regulations in what we might call “peacetime”, to prepare for future threats. That was my point to Mr Cole-Hamilton. I am thinking here of standing preparedness measures such as those that have been in place in England and Wales since 2010.

**Jamie Greene (West Scotland) (Con):** Will the minister accept an intervention?

**John Swinney:** I hope that Mr Greene will forgive me, but I have a lot of material to put on the record.

The second point that I recognise is the need for future action by ministers to be grounded in evidence. Throughout the Covid pandemic, decision making was guided by the advice of our chief medical officer and other advisers, as members saw most recently when key scientific evidence concerning the potential impacts of the omicron variant was provided to the Parliament in December.

Thirdly, I have acknowledged that there is a need to involve Parliament in decision making more effectively than was originally proposed. The need for swift and effective action in the event of a

future public health threat must be balanced by proper parliamentary scrutiny.

Drawing those three points together, I consider that the most appropriate approach is to enact the necessary legislative framework now but to insert a mechanism that requires Parliament to authorise the use of such powers in a specific circumstance. We need the ability to co-ordinate a national public health response that could supplement local action that is already possible under existing public health legislation, and we also need adequate parliamentary oversight.

To ensure that the necessary parliamentary oversight is in place, the Government will lodge amendments to introduce a gateway vote mechanism, which would mean that key aspects of the public health protection and educational continuity powers would have effect only if a parliamentary vote on a formal Government declaration was held and the declaration approved. That would allow the Parliament to enact these powers with the confidence that lockdown, school closure and other emergency response measures could be imposed only in the event of a future public health threat—and in an emergency situation—if the Parliament has so authorised.

I do not consider that the standing preparedness measures would be subject to the gateway control, because they would be resilience preparations that would be the subject of regulations under the draft affirmative procedure and would be approved by Parliament before they were enacted. They cannot objectively be described as emergency measures. That capability is an important measure in our response toolkit. The powers to make such measures have not been available in Scotland as they have been in England and Wales, and the bill already sets out sufficient safeguards for their use, including, of course, parliamentary approval under the draft affirmative procedure.

Consideration will also need to be given to exceptional circumstances in which Parliament cannot meet—for example, when it has been dissolved in the pre-election period. I will provide members with more details at stage 2, for scrutiny at that point. Building on the practices with which we have become familiar through the Covid pandemic and the need that I have identified for an appropriate evidence base, the Government declaration underpinning those issues would rely on the advice of the chief medical officer.

**The Presiding Officer:** Cabinet secretary, I must ask that you conclude.

**John Swinney:** I hope that the amendments that I have announced this afternoon, together with the further points that were made in the stage 1 report in relation to the Henry VIII powers and



the introduction of a gateway provision, demonstrate the Government's willingness to listen to Parliament as we bring forward necessary measures that are required to ensure that we have adequate protection in place for a future pandemic, but which—crucially—pay respect to and observe the importance of parliamentary accountability.

I move,

That the Parliament agrees to the general principles of the Coronavirus (Recovery and Reform) (Scotland) Bill.

**The Presiding Officer:** I call Siobhian Brown to speak on behalf of the COVID-19 Recovery Committee.

15:10

**Siobhian Brown (Ayr) (SNP):** I am pleased to speak in the debate on behalf of the COVID-19 Recovery Committee. I put on the record the committee's thanks for the hard work and support of our clerking team.

I will first provide an overview of how the bill has been scrutinised at stage 1, before I outline the committee's key findings in its stage 1 report.

The wide-ranging nature of the policy areas that are engaged by the bill arguably reflects the profound impact that Covid-19 has had on our society and our economy. As we enter the recovery phase of the pandemic and much of the temporary coronavirus legislation expires, the bill invites us to consider what lessons we have learned since 2020 and which measures should be retained to ensure that we can respond to future public health threats effectively and proportionately.

We worked with relevant subject committees to ensure that the bill received thorough and informed scrutiny to answer that question. I am grateful to the Education, Children and Young People Committee, the Criminal Justice Committee and the Local Government, Housing and Planning Committee for working jointly with our committee to scrutinise the bill. I am pleased that the conveners of those committees will take part in today's debate, and I will therefore focus my contribution on the provisions that our committee scrutinised in parts 1 and 3 of the bill.

Part 1 contains powers to co-ordinate a national response to a public health threat. Those powers formed the backbone of the Covid-19 response but they are broadened by the bill to enable the Scottish ministers to respond to any infectious disease or biological or chemical contamination in the future.

We do not often consider legislative provisions that have had such a profound and direct impact on all our constituents, and I think that that is

reflected in the high response rate to our consultation. We received more than 3,900 responses to our survey, and nearly 100 written submissions. A clear majority of the responses to the short survey were opposed to the bill. For example, more than 80 per cent of responses argued against the provisions in part 1 being made permanent. Although the responses to our survey do not form a representative sample of the population's views, they highlight that there is significant public interest in the bill.

The committee was therefore keen to reflect on how the powers were used in response to Covid-19 and whether they provide the right framework for dealing with a future threat. I thought that it was interesting that an expert in public health drew an analogy with preparations for war, noting that

"military planners are always planning for the previous war, not the next war".—[*Official Report, COVID-19 Recovery Committee*, 3 March 2022; c 4.]

When we looked into the legislative template that has been used, we found that the provisions implement the World Health Organization's international standards for public health legislation. That is an important point. The framework was developed internationally in response to the experience with severe acute respiratory syndrome—SARS—and similar powers have been in place in England and Wales since 2008.

Part 1 of the bill largely mirrors the English and Welsh legislation, but it includes some substantive differences. The key difference that we focused on was the inclusion of the Henry VIII powers that are found in parts 1 and 6, which would enable the Scottish ministers to amend any legislation for a purpose related to the scope of the bill.

The committee noted that there are alternative approaches to the inclusion of the Henry VIII powers in the bill. The provisions could be removed entirely and brought forward in emergency legislation in the future, if required. Another approach would be to delay the commencement of those provisions until a public health emergency arises, and to give the Parliament a role in scrutinising the decision to commence the powers in those circumstances. The committee did not come to a consensus on that matter, but I welcome the fact that the Scottish Government has considered it, and I welcome the update from the Deputy First Minister in his opening speech.

Some members of the committee agreed with the general purpose of the provisions in chapter 1 of part 1, which is to enable the Scottish ministers to co-ordinate a national response to future health threats. Other members considered that the Scottish Government had not made a sufficient case as to why those powers should be made permanent. Instead, they considered that the

powers could be brought forward quickly in primary legislation, if required, in the future.

However, committee members were in agreement on many aspects of the bill. We all agreed that the role of the Parliament in a public health emergency is paramount, notwithstanding the challenges faced by the Government in responding to such threats. That is why we argue that part 1 could be strengthened, including in relation to the use of the made affirmative procedure. On that, we are in agreement with the Delegated Powers and Law Reform Committee. My colleague Stuart McMillan will contribute to the debate, so I leave it to him to explain those recommendations in more detail.

The COVID-19 Recovery Committee would also like some of the best practice that was developed between the Parliament and the Government to be reflected in the bill, such as the reporting requirements that were contained in the temporary Covid-19 legislation and the requirement that the reviews of the use of the legislation be reported to the Parliament. We also ask that the Government consider amending the bill to require that an appeals process be created if the requirement to use the powers in part 1 is triggered. I note that the Government has indicated that it does not support those recommendations, and we may return to the reasons for and against them during the debate.

I conclude by commenting on part 3 of the bill. The non-justice measures in part 3 are aimed largely at ensuring that our public services can be delivered remotely and are intended to ensure that our public services are more resilient to any disruption in the delivery of in-person services. The committee agreed with the general principles of those provisions, but we argue that the bill should also include a requirement for local authorities to provide a choice between remote and in-person services. We also ask the Scottish Government to give further consideration to how it is going to work with local authorities and the third sector to ensure that sufficient and appropriate support is available to users of online services, particularly those who are digitally excluded. I welcome the Scottish Government's agreement, in its response to our report, that we cannot disadvantage those who do not want to, or cannot, access public services online.

The bill also deals with the nomination of a named person under the Mental Health (Care and Treatment) (Scotland) Act 2003. We consider that the bill could be strengthened by requiring a nominated person to confirm that they have read and understood the guidance on their role, when they take it on. We also recommend that more needs to be done to ensure that people take up what is an important safeguard, and I note that the

Scottish Government intends to take forward some of our recommendations in guidance.

The committee recommends that the Parliament approve the general principles of the bill. We came to that decision through a vote.

I look forward to hearing more detail on the Scottish Government's response to our report during the debate.

15:18

**Audrey Nicoll (Aberdeen South and North Kincardine) (SNP):** I am pleased to open in the debate on behalf of the Criminal Justice Committee, which is a secondary committee on the bill and has considered its justice provisions. At the outset, I thank the witnesses who took the time to give evidence on the bill. Their views have helped to shape the committee's views on the proposals. I also thank the committee's clerking team for its support in leading us through the stage 1 process and producing our stage 1 report.

The justice provisions in the bill can be divided into two types of measure: permanent and temporary. The permanent changes are those that were put in place during the pandemic and that the Scottish Government has decided are worthy of permanent retention. In general, those attracted limited comment and were fairly non-contentious. For example, the bill proposes the establishment of a permanent system whereby interim payments can be made to lawyers for legal aid work.

The temporary justice measures in the bill attracted more interest. The bill sets out what "temporary" means in practice. All the temporary justice measures will expire on 30 November 2023 unless an extension is agreed by statutory instrument. The temporary measures cannot be extended beyond 30 November 2025.

I will briefly highlight four of the temporary justice measures. First, the bill proposes to extend the current temporary measures that supported electronic court business—sometimes referred to as virtual courts or virtual trials—during the pandemic. The committee heard from some in the justice sector who see the advantages of virtual working; however, the committee heard other, more sceptical, views, including fundamental concerns about how that impacts on the solemnity of justice and practical concerns about digital exclusion. The committee's view is that more virtual trials need to take place in the criminal courts before a properly informed view can be taken about making them permanent. In particular, we are concerned that only a limited number of virtual summary trials had gone ahead. In effect, there needs to be an expansion of the pilot so that more evidence can be gathered as to their effectiveness.

If the Scottish Government seeks to extend the temporary provisions beyond 2023, the committee would expect to see robust evidence to justify that. The committee notes in the Scottish Government's response its intention to consult more broadly on virtual proceedings and on improving victims' experiences in the justice system, such as with the use of virtual trials in summary proceedings.

A second temporary measure in the bill relates to fiscal fines. The bill will temporarily increase the maximum level of fiscal fine that is available to prosecutors from £300 to £500. A majority of the committee supported those temporary provisions. However, the committee's view is

"that there should be more transparency and improved reporting on the use of fiscal fines",

which, importantly,

"may help the victims understand the process."

We would also question any moves

"to extend the fiscal fine provisions to include more types of crime."

The committee notes the Scottish Government's response, which highlights existing reporting on fiscal fines and the reassurance that is provided by the temporary nature of the measure.

The bill proposes a temporary relaxation of the statutory time limits that criminal proceedings are subject to. Some witnesses described those provisions as "a necessary evil", given the need to ensure the delivery of justice. The committee's view is that the further extension of time limits is concerning, and that there are good reasons for returning to normal time limits as soon as feasible. The committee seeks reassurance that the use of extended time limits will be monitored and used proportionately. The committee notes that, in its response, the Scottish Government agrees that

"the extended time limits ... should not become the 'new normal'".

Finally, there is also a temporary power in the bill to allow Scottish ministers to make regulations to release certain people from prisons and young offenders institutions early. Various safeguards around the use of that power are included in the bill. The committee's view is that a balance must be struck between the risks that are associated with the early release of prisoners and the risks that are associated with a Covid outbreak in prison. We consider that the power should be used only in the case of a significant deterioration in the Covid-19 position in Scotland and where a Covid outbreak cannot be managed through any measure other than reducing the prison population. The cabinet secretary has provided reassurance that he has no current plans to use the power. Any regulations on the early release of

prisoners would be subject to close parliamentary scrutiny by the committee.

In the time that was available to it, the Criminal Justice Committee gave careful consideration to the justice provisions in the bill. If the bill passes at stage 1, we stand ready to consider those justice provisions line by line at stage 2.

**The Deputy Presiding Officer:** I call Ariane Burgess to speak on behalf of the Local Government, Housing and Planning Committee.

15:25

**Ariane Burgess (Highlands and Islands) (Green):** The bill covers many areas of policy, beyond the scope of any one committee. With our clear remit for housing issues and our keen interest in homelessness and ensuring that everyone is able to have somewhere secure that they can call home, the Local Government, Housing and Planning Committee welcomed the opportunity to consider part 4 of the legislation.

The bill will continue some but not all of the mitigations for tenants that were introduced during the pandemic. It makes all grounds for eviction discretionary and provides for landlords to undertake certain actions to support tenants when rent arrears start to build.

**Michelle Thomson (Falkirk East) (SNP):** I read the report of the Local Government, Housing and Planning Committee with interest but noticed that it did not include all types of housing providers. The Scottish Property Federation has said:

"We believe that the overall impact of this Bill could be to weaken the PRS by fuelling a perception of regulation and risk for investors that will undermine efforts to attract capital investment to the sector."

As the bill progresses through its stages, could the committee, in making an assessment, reflect further on the impact on all stakeholders and all housing providers?

**Ariane Burgess:** I will take that on board. If the member allows me to continue, she will hear that we are aware of those matters.

Making the grounds for eviction discretionary ensures that the First-tier Tribunal for Scotland can consider all sides and perspectives when eviction is sought. The provision ensures that there is more security for tenants and breathing space for both parties to consider what is the best outcome, and it reduces the likelihood of a family potentially becoming homeless. The tribunal will have the opportunity to balance the needs of tenants with the rights and needs of landlords. We heard, loud and clear, from the organisations supporting and advising tenants that they support those changes in the emergency legislation becoming permanent.

The actions of landlords, such as discussing ways in which any debt can be repaid and signposting tenants to support when they start falling behind in their rent, will also be considered by the tribunal when eviction is sought. That is what happens in the social housing sector, and it represents a humane way to respond to a family who are struggling to remain in their home.

Witnesses representing landlords made their case clearly and thoughtfully, allowing us to understand the risks that landlords could face and their concerns about the bill creating uncertainty for landlords. We understand that properties might have been purchased to fund retirement or be required for landlords' own housing needs. The tribunal can consider those factors fully in its deliberations.

Witnesses representing landlords also highlighted the potential unintended consequence of those perceived risks: that landlords would exit the long-term private rented market, thereby worsening the situation for those seeking to rent privately. We were made aware that the vast majority of landlords in Scotland have only one rental property and are reliant on it as an investment that they can realise when they need to.

We also heard that the relationship between local authorities, which have responsibility for dealing with homelessness, and the private rented sector needs to improve. Good mutual understanding is required, as is an understanding of the nature of the sector across local authorities to allow better collaboration to prevent homelessness. We hear the concerns of landlords, and we note that a tribunal will still be able to grant an eviction and use its discretion to decide what a reasonable and fair outcome is for both landlords and tenants.

To conclude, the committee supports the provisions being made permanent, with the understanding that a comprehensive housing bill will be introduced in the next parliamentary year. We believe that the provisions will provide continuity and security for tenants in the short-to-medium term. The Government must closely monitor the effects—intended and unintended—of the legislation. Will evictions reduce? Will the sector shrink and will landlords leave the market, worsening homelessness in the longer term? We hope that the answer to the first question is yes and that the answer to the second is no. In any event, we ask that that evidence be made available ahead of any future housing legislation. Landlords should be reassured that we will look closely at the effects of that change during our scrutiny of any future legislation in the area.

We also urge the Government to work closely with the private rented sector and local authorities.

We must recognise the invaluable contribution that the private sector makes in offering a healthy mixed economy of long-term housing options, and all levels of Government need to work in a constructive way to prevent homelessness. A place that is safe to call home provides the most fundamental base for families to thrive.

**The Deputy Presiding Officer (Annabelle Ewing):** I call Stephen Kerr to speak on behalf of the Education, Children and Young People Committee. You have up to four minutes, Mr Kerr.

15:30

**Stephen Kerr (Central Scotland) (Con):** On this occasion, I am delighted to speak on behalf of the Education, Children and Young People Committee about our work at stage 1 on the Coronavirus (Recovery and Reform) (Scotland) Bill.

Our committee considered the provisions in part 2 of the bill, which are designed to ensure that the Scottish ministers have powers to enable educational establishments to take action to protect public health and ensure the continuity of educational provision relating to the temporary closure, or conditions on the functioning, of educational establishments or student accommodation, and relating to how local authorities would need to undertake consultations about proposals in relation to schools.

The committee is grateful to all those who provided evidence, which informed our report.

The majority of the members of the committee were content with the regulation-making powers conferred on ministers in part 2 of the bill, but the committee was not unanimous in its support. The recommendations that we set out in our report are intended to be constructive and seek to improve the bill.

I do not have lot of time this afternoon—I have been allocated only four minutes—so I will focus on our recommendations, which call for greater clarity in some of the provisions in part 2, including those that relate to the closure of schools, colleges and universities.

In their evidence, the Educational Institute of Scotland and the Convention of Scottish Local Authorities stated that local authorities do not have the power to unilaterally close a school on public health grounds. In such circumstances, a school must obtain permission from the local public health authority.

In their evidence, Universities Scotland and Colleges Scotland stated that the Scottish Government would not have the detailed local knowledge to exercise its powers to make decisions on which departments, buildings or

research projects should close in a public health emergency, as is provided for in the legislation. The cabinet secretary has acknowledged that such practical issues would require to be managed flexibly and that some exceptions might have to be applied.

The committee agreed that

“local authorities and other stakeholders should have a clear and unambiguous understanding of where responsibility lies to close schools quickly in any future public health emergencies.”

The committee also agreed that it is essential that there is clarity on how exceptions to closure in university and college settings will be managed. We have therefore called on the Scottish Government

“to provide further detail on—

- how it intends to consult with institutions to identify those facilities whose closure may not be possible or may have to be limited for practical, safety or welfare reasons; and
- how such issues would be addressed in the development and application of regulations under this Part of the Bill.”

When the Cabinet Secretary for Education and Skills gave evidence to the committee, she expressed the Scottish Government’s willingness to engage further with key stakeholders to discuss any concerns. The committee welcomed that intent, and it looks forward to hearing more about the results of that engagement at some point this afternoon.

**The Deputy Presiding Officer:** I call Stuart McMillan to speak on behalf of the Delegated Powers and Law Reform Committee. You have up to four minutes, Mr McMillan.

15:34

**Stuart McMillan (Greenock and Inverclyde) (SNP):** I am delighted to speak in this stage 1 debate on behalf of the Delegated Powers and Law Reform Committee.

As has already been touched on by other members, the bill includes significant powers that can be exercised using the made affirmative procedure. Given that the use of that procedure was relatively unusual until recently, I want to take a few moments to highlight the committee’s recent inquiry into its use during the pandemic. That work helped to inform and shape the committee’s findings on the bill.

The made affirmative procedure, which allows the Scottish Government to change aspects of the law straight away, was usually seen by the Parliament only once or twice a year, but the procedure has been used more than 150 times since March 2020. In scrutinising those changes to

the law, the committee understood that it was necessary to use emergency powers to respond to the public health emergency. However, our inquiry raised concerns about how clear and accessible the laws that were created with those powers were, particularly when they came into law prior to being scrutinised in the Scottish Parliament.

We highlighted in our inquiry report a set of principles that might provide the basis for parliamentary scrutiny where legislation includes such provisions—the bill is a prime example of that. Our stage 1 report, reflecting on what we found in our inquiry, recommended that the Scottish Government lodge amendments for each power that can be exercised subject to the made affirmative procedure. Those statutory requirements would be threefold: first, that each Scottish statutory instrument is accompanied by a written statement explaining and providing evidence of why the regulations need to be made urgently; secondly, that the Government includes an assessment of the impact of the instrument on all those likely to be affected; and thirdly, that such SSIs are subject to a sunset provision, so that changes to the law are not in force indefinitely.

From its response to our stage 1 report, and from the Deputy First Minister’s comments earlier, we know that the Scottish Government intends to lodge an amendment to provide an explanation of urgency and that it is considering adding a sunset provision to the powers at stage 2. I am sure that committee colleagues will welcome that.

There was not the same consensus among committee members on the five powers that can be exercised subject to the made affirmative procedure. The five powers are: the public health protection regulations in section 1; the continuing operation of educational establishments in section 8; school boarding accommodation in section 9; student accommodation in section 10; and early release from prison or a young offenders institution in paragraph 24(1) of the schedule.

Some members of the committee considered that the Scottish Government did not make a sufficient case for why those powers should be delegated and argued that such changes to the law could instead be made quickly under primary legislation. However, a majority of the committee—three of the five members—was content in principle with the delegation of each of the powers. Nevertheless, on school boarding and student accommodation, the committee considered by a majority of three to two that each power should only be capable of being exercised subject to the affirmative procedure.

I note the COVID-19 Recovery Committee’s recommendations on Henry VIII powers. Our call for a statement of urgency when making such regulations in an emergency might provide

additional limitations to the potential use of the made affirmative procedure when exercising such powers.

The committee is working with the Scottish Government to develop a protocol for an expedited affirmative procedure, and the Deputy First Minister commented on that earlier. That work follows on from previous protocols that have been established between the DPLR Committee and the Scottish Government. We believe that that could be used in place of the made affirmative procedure.

In closing, I restate the committee's consistent and strongly held position that the Scottish Government should use the affirmative procedure in all but exceptional and urgent circumstances. I note what the cabinet secretary said earlier in the debate, and the committee looks forward to seeing the fruits of that when we next consider the bill following the lodging of amendments at stage 2.

15:38

**Murdo Fraser (Mid Scotland and Fife) (Con):** I remind members of my entry in the register of members' interests; I am a member of the Law Society of Scotland, and I derive some income from rental properties. I am also a member of the Church of Scotland, which I will mention later.

I join the convener of the COVID-19 Recovery Committee and other committee conveners in thanking all those who gave evidence to our committee or to other committees at stage 1, and I thank our committee clerks for their support. The COVID-19 Recovery Committee produced a very detailed and thorough report on the bill, which I commend to all members.

The Coronavirus (Recovery and Reform) (Scotland) Bill seeks to make permanent emergency powers that were taken by the Scottish Government to deal with the coronavirus pandemic. Some of the bill's provisions that provide long-term reform are very sensible—for example, we would have no hesitation in supporting measures to allow nurses to administer vaccinations on an on-going basis, and we agree with some of the proposals to allow services that currently have to be provided face to face to be provided digitally and online.

However, too much of the bill is simply not necessary at this stage. To make permanent what were emergency and extraordinary powers would pass control from the Parliament to the Government. That would represent a power grab on the part of Scottish National Party ministers, which we cannot support.

The depth of concern about what is proposed was illustrated by the consultation that was run by

the COVID-19 Recovery Committee, which the convener referred to. Nearly 4,000 respondents completed the committee's survey—I cannot remember a committee receiving a response as large as that—with as many as 90 per cent of respondents expressing concern about what is being proposed. Many stakeholders also detailed their opposition to the powers in the bill.

**John Mason (Glasgow Shettleston) (SNP):** I note what the member has said, but does he accept that the Deputy First Minister's quite major concessions allay those concerns?

**Murdo Fraser:** That remains to be seen. I recognise that some concessions have been made. Nevertheless, the bill will still be on the statute book, and it still represents a shift of power away from the Parliament to the Government. The trigger mechanism that has been proposed by the cabinet secretary would still not give the Parliament the opportunity to amend the legislation, as and when required, so we still have reservations about the bill, and we will see what stakeholders have to say in due course.

When it came to the general principles, the committee agreed to support the bill only on the casting vote of its convener. There is no consensus that the bill is required, which is why we will oppose it at decision time.

The Scottish Government argues that the measures in the bill simply reflect legislation elsewhere in the United Kingdom. However, the fact is that the bill's provisions go well beyond what is permitted elsewhere. There are no limits on the amount of time that can be removed before a prisoner is released, unlike the situation south of the border. One of the most controversial aspects of the bill—the use of Henry VIII powers—is also not reflected in the equivalent legislation south of the border.

**Jim Fairlie (Perthshire South and Kinross-shire) (SNP):** Will the member take an intervention on that point?

**John Swinney:** Will the member take an intervention?

**Murdo Fraser:** I will give way to the cabinet secretary.

**John Swinney:** I am grateful to Mr Fraser for giving way. Does he not accept the argument that I have made to the committee that there are deficiencies in the legislation on the statute book in Scotland, and that the way to solve that is to legislate in order to address some of the issues that have been addressed in England and Wales, where the authorities are able to better prepare for pandemics in the future? Surely we need to consider that important issue with open minds in the legislative process.

**Murdo Fraser:** The Government could have pursued an alternative approach, as proposed to the committee by Professor Fiona de Londras of the University of Birmingham, whereby the Parliament could agree draft legislation that would deal with the issues in the bill and could be left on the shelf to be introduced as and when it was required. Two years ago, the Parliament demonstrated that it can legislate very quickly in an emergency situation. We have already proved that that can be done. We could have approached the bill in that way. Crucially, that would put the Parliament, not the Government, in control of the process and would allow the legislation to be amended.

**Jim Fairlie:** Will the member take an intervention?

**Murdo Fraser:** I have given way several times. I need to make some progress. Sorry, Mr Fairlie.

I will turn to some of the specific measures in the bill. My colleague Jamie Greene will comment in more detail on the justice provisions, and I will mention the measures on housing and tenancies. A great deal of concern has been expressed by stakeholders that the temporary measures that were introduced in response to the pandemic are now to be made permanent, which will restrict the right of landlords to recover possession at the end of a tenancy period. The joint submission by NFU Scotland, Scottish Land & Estates and the Scottish Association of Landlords states that those proposals will deeply damage the private rented sector and could lead to many landlords simply withdrawing from the sector, thus restricting the supply of property for rent. At a time when rents are already rising—

**Michelle Thomson:** Will the member give way on that point?

**Murdo Fraser:** I will, briefly.

**Michelle Thomson:** I put on record that I have an interest in buy-to-let property, but not in institutional investors, as per my earlier point.

Is the member aware that a survey by the National Residential Landlords Association that was published in November 2021 showed that 28 per cent of landlords in England and Wales were seeking to exit the market as a direct consequence of section 24, which is an unfair tax change that was introduced by the Westminster Government, and that that is having a significant effect?

**Murdo Fraser:** I recognise that there are a number of issues for private landlords, but the answer to that is not to introduce even more legislation that will impact on them, as this bill seeks to do.

The language that is used in the joint submission by NFU Scotland, Scottish Land & Estates and the Scottish Association of Landlords is striking. It says that the Government's suggestion

“that stopping these emergency provisions would cause confusion is at best spurious and at worst deliberately dishonest”.

The Scottish Government really needs to listen to those sectors.

Those concerns have been raised not just by landlords' representatives. We have also heard from churches, including the Church of Scotland, which is concerned that it will no longer be able to safely let out church properties, such as manses that might be temporarily vacant, without the security of knowing that they can recover possession when they are needed for a new minister. The consequence of that is likely to be that those properties will simply lie empty, rather than be made available for housing. That must be contrary to public policy, yet it is an unintended consequence of what the Government is proposing.

**The Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights (Patrick Harvie):** Will the member take an intervention?

**Murdo Fraser:** If I have time, I am happy to take a further intervention.

**The Deputy Presiding Officer:** Mr Fraser, I appreciate your generosity in that regard, but you should bring your remarks to a close.

**Murdo Fraser:** I offer my apologies to Mr Harvie.

Elsewhere in the bill, there are concerns about powers to close educational establishments. Stephen Kerr referred to those concerns in relation to the impact on universities and colleges. The Cabinet Secretary for Education and Skills told the Education, Children and Young People Committee that the power to shut down universities would be necessary in the case of defiance by right-wing university principals. If there are right-wing university principals in Scotland, I would really like to meet them, but I fear that that is a bogus argument.

There are very serious concerns, which I do not have time to cover, about the Henry VIII powers that are in the bill. We cannot accept this transfer of power from the Parliament to the Government. It is unjustified and inappropriate, and, for those reasons, we will oppose the bill at stage 1.

**The Deputy Presiding Officer:** I call Jackie Baillie to open the debate on behalf of Scottish Labour.

15:46

**Jackie Baillie (Dumbarton) (Lab):** I am grateful for the opportunity to speak in the stage 1 debate on the Coronavirus (Recovery and Reform) (Scotland) Bill. It could have been an opportunity to pass legislation that would support Scotland's recovery and introduce some sensible and much-needed change. Unfortunately, the bill is more about legacy legislation than about looking forward. It reacts to past challenges, while failing to learn lessons from the pandemic. The Scottish Government wants to drive through legislation before the independent public inquiry has had a chance to examine the Government's handling of the pandemic.

The SNP is pushing through a bill that, as it stands, would have serious and long-term consequences for this country and our democracy. Throughout its 15 years in office, the SNP has been very effective in centralising power in St Andrew's house. The bill is another step on that trajectory. It would grant ministers far-reaching powers to introduce, amend or repeal laws without advance parliamentary scrutiny, so, in our view, the bill as it stands must be opposed.

However, I will examine the detail of the Deputy First Minister's proposal for amendments. We will come back to that.

**John Swinney:** I have explained with care to Parliament that, in response to exactly the feedback that Jackie Baillie has mentioned, the Government will substantively amend the bill, given the necessity of ensuring greater parliamentary oversight and prior decision making. I hope that that makes a substantial difference to the Labour Party's thinking and that Labour members will approach the legislation that is before Parliament with an open mind.

**Jackie Baillie:** As I said before the Deputy First Minister stood up, we will examine the detail of his proposal before stage 2.

We know that, as well as the SNP being a centralising Government that sucks up power, it is a Government that is completely lacking in transparency and that takes pride in the culture of secrecy at its very heart. *[Interruption.]* I can only call what I see and what the people of Scotland see each and every day.

Had the bill's provisions been in place at the start of the pandemic, the SNP would have succeeded in its attempt to suspend freedom of information legislation. That important tool for holding any Government to account, which the SNP resists at every turn, would have been suspended for an indefinite period. That would undoubtedly have harmed our democracy. The so-called Henry VIII powers amount to a power grab and must be opposed in their entirety.

I think that we can all acknowledge that the Scottish Government's response to the pandemic was flawed. When it came to personal protective equipment, the withdrawal of many social care services, the transfer of untested patients from hospital and other measures, the Government did not always get it right. The bill would enable the Scottish Government to double down on those areas, with no checks and balances in place to stop them. Ministers would be able to do all sorts of things, such as closing schools without approval from local government or the Parliament.

The proposals do not just lack transparency; they are simply not necessary. The Parliament has shown, time and time again, that it can respond quickly to events as they unfold, allowing MSPs from all constituencies and all parties to scrutinise, debate and perfect legislation in a robust way. In fact, the Parliament's first-ever piece of legislation was passed in just a week. The Mental Health (Public Safety and Appeals) (Scotland) Act 1999 is proof of how quickly the Parliament can act, and it is evidence that making temporary powers permanent is unnecessary.

When the Parliament at Holyrood was formed, 23 years ago, key principles were adopted to ensure that it would serve the people of Scotland well. Those principles stated that

"the Scottish Parliament should embody and reflect the sharing of power between the people of Scotland, the legislators and the Scottish Executive"

and that

"the Scottish Executive should be accountable to the Scottish Parliament and the Parliament and Executive should be accountable to the people of Scotland".

The bill that is before us flies in the face of the very principles on which the Parliament was built. It would therefore be inappropriate to support the bill in its current form, and the SNP and Greens should not use their majority in Parliament to ram it through.

I will turn to other aspects of the bill. Scottish Labour views many individual provisions as positive. The proposals on vaccination, such as ensuring that a wider group of healthcare staff are able to administer vaccines over the course of a pandemic, which eases the pressure on general practice services and allows them to focus on primary care. The continuation of that policy makes sense. The bill would also allow parents to register the births of their children online, instead of in person—a move that is befitting of the 21st century. Other sections of the bill tackle homelessness and bankruptcy provision, and they are a step in the right direction. It is a shame that those proposals come wrapped together with others that hand sweeping powers to ministers. The point has also been made that there are



other, perhaps better, legislative opportunities to take forward those measures.

Other proposals have caused concern. On justice, the bill would extend the period in which proceedings must commence to nine months. The Criminal Justice Committee believes that that proposed extension is too long, and the Law Society of Scotland has even argued that extensions should be decided on a case-by-case basis.

Therefore, I am afraid that Scottish Labour will not support the general principles of the bill at stage 1, because it is largely a power grab and it undermines the Parliament's role in scrutinising and shaping legislation. It denies not just the Parliament but the people of Scotland that opportunity. If the Scottish Government wants our support for the bill, it must take the contentious powers off the table by stage 2.

**The Deputy Presiding Officer (Annabelle Ewing):** I call Alex Cole-Hamilton to open on behalf of the Scottish Liberal Democrats. You have up to six minutes, please, Mr Cole-Hamilton.

15:52

**Alex Cole-Hamilton (Edinburgh Western) (LD):** I rise to speak for the Scottish Liberal Democrats at stage 1 of the bill. When we were forced to lock down in March 2020, Scottish Liberal Democrats reluctantly agreed to the deep and wide-ranging powers being granted to the Scottish Government, which were necessary to get us through the work of the pandemic. We turned those bills around in just days; however, they were not meant to last forever.

Lessons have undoubtedly been learned from the pandemic, and it is right that sensible reforms are made in response to that. The situation caused public services to innovate, and many found new ways of working and adaptations that should, by rights, be retained. Much in the bill falls into that category, particularly those items that will allow the sensible use of technology when appropriate, providing that the necessary infrastructure is in place and that the changes are given scrutiny.

However, my party and I are clear that many aspects of the bill represent an unprecedented power grab by the Scottish Government and, despite the concessions that were announced this afternoon by the Deputy First Minister, the bill still represents an unacceptable transfer of power from the legislature to the Executive. The Parliament would never have countenanced handing over many of those powers to ministers before the pandemic, and we must not do so now.

The bill will represent a permanent transfer of some powers from the Parliament to the Executive, undermining democracy and civil liberties in the process. That is chilling. It is made even more troubling by the fact that it is wholly unnecessary and perhaps even unhelpful.

On 24 March 2020, just as millions of people were put into lockdown, Nicola Sturgeon said:

"I am very clear that the emergency powers are necessary, but that they should be used only if and when we deem it necessary and they should exist only for as long as they are needed."

She went on to say:

"at a time when we are taking emergency powers and we are asking the public to do things that restrict the liberty of all of us, scrutiny is absolutely essential".—[*Official Report*, 24 March 2020; c 18.]

So what has changed? It seems that the Government has simply grown quite accustomed to having those unprecedented powers and no longer feels the same sense of unease or solemnity.

**Jim Fairlie:** Does Alex Cole-Hamilton not agree that the Scottish Parliament and the Scottish Government should have the same level of legislative authority to make such decisions as is held in England and Wales?

**Alex Cole-Hamilton:** First, I contend that the bill is not a mirror image of the legislation that applies south of the border, which Liberal Democrats there opposed.

Let us be honest: the Scottish Government centralises power at its leisure. It has taken every opportunity to transfer control from local authorities to St Andrew's house. There can be absolutely no justification for the Executive permanently retaining the ability to shut schools, release prisoners and impose lockdowns. The thought of that is still quite alarming.

We could not have legislated for everything that we needed to do to enable us to respond to Covid-19 before we had heard of it, any more than we can now legislate for the next variant of the virus or perhaps the next pandemic that might come down the track. As other members, particularly Murdo Fraser, have said, it would be far better to instruct civil servants now to prepare draft legislation—a toolkit—to put on the shelf, to be ready for such an eventuality. The power to make changes to our justice or education systems, for example, should come from the ground up. It should lie with people who understand those systems, have existing responsibility for managing them and are able to monitor the impact of any changes that are made.

If the powers contained in the bill were to be used in the future without the scrutiny and

unanimous backing of the Parliament, public support for necessary measures would immediately be undermined. Even with the concessions that have been announced today, the Parliament would not be able to amend such strictures.

If the Government will not take my word for it, perhaps it will listen to Michael Russell, who said during the stage 3 debate on the Coronavirus (Scotland) Bill that it was important for the Scottish people to see the unanimous support of their Parliament for the action that was being taken. That cannot be guaranteed with what is proposed. It was important then, as it is now and ever shall be in the future.

The bill has been badly thought out and the Government's argument for it is paper thin. The Deputy First Minister said that it will allow the Government to speed up "sufficient comprehensive action" in the event of a future pandemic or public health emergency. However, in March 2020, faced with an unprecedented situation and without access to many of the facts, Parliament was able to pass the necessary legislation in a matter of days.

There is no guarantee that the measures in the bill would even be helpful in the face of a future, different virus. As I have said, it would be far more appropriate to draft primary legislation that would be ready to go at a moment's notice. That way, Parliament would only need to decide which and whatever powers in the draft legislation were necessary and proportionate, without the need to write them from scratch. That is not just my view; the Criminal Justice Committee has also posed that as an alternative.

To be clear, I am all for the Government having a better plan for future pandemics. Its Silver Swan strategy planned for the wrong type of pandemic. It overlooked care homes and did not even mention testing. We need something better, but this bill is not it. Let us not forget that, during the recent pandemic, the Government needed the scrutiny of Parliament to prevent it from taking the gratuitous step of stopping jury trials for the first time in 800 years. The scrutiny of the Parliament really matters.

Nicola Sturgeon has said many times that she did not want the powers for a moment longer than necessary, and yet here we are. The SNP talks a good game about the importance of democracy when it suits it, but the bill demonstrates that it does not possess the necessary wisdom and humility to safeguard it. The Liberal Democrats see it as one of our core duties to stand up for civil liberties and democracy—the clue is in our name. Therefore, we wholeheartedly reject this power grab and the cynical and, quite frankly, chilling politics that it represents.

**The Deputy Presiding Officer:** We move to the open debate, with speeches of five minutes. There is no time in hand, so any interventions must be absorbed within the allocated time.

15:59

**John Mason (Glasgow Shettleston) (SNP):** There is a lot in the bill that is welcomed by all members of the COVID-19 Recovery Committee, not least the increase in the amount owed before a creditor can force a debtor into bankruptcy, the remote registration of births and deaths, and vaccinations not having to be under the control of a medical practitioner. Much of the bill is not contentious at all.

Where there has been a bit of disagreement, it has concerned what legislation should be put in place now so that a future Government is better placed to act quickly—in comparison to the situation where we needed rushed primary legislation in early 2020. It is true that we rushed legislation through at that point and, on the whole, it has worked. However, most of us agree that it was not perfect and could have been better had it not been so rushed.

The next problem is that we do not know what the next pandemic or other crisis might be, which could be an argument for doing nothing now and waiting to see what happens. However, it would seem unfortunate if we were not at least a bit better prepared next time than we were this time. There certainly would be a problem next time around if, say, half the MSPs caught the virus at the start and Parliament itself was more disrupted than it was last time around.

**Brian Whittle (South Scotland) (Con):** Given that, as Mr Mason suggested, we do not know the nature of what is coming down the line, would it not be better to have the legislation waiting at the side to be enacted, so that we could amend it to recognise the next pandemic—or whatever other emergency—that comes down the line?

**John Mason:** I accept that that is one option, but so is having the legislation in place and ready. The Deputy First Minister has given a reassurance that that legislation will not come into effect until Parliament agrees. There will obviously be a need for further legislation at that time, in which Parliament can be involved. Therefore, I do not really accept Mr Whittle's point.

I wonder whether there might be room for compromise on the matter. That is what we are hearing this afternoon from the Government, which is very positive.

The COVID-19 Recovery Committee took a fair amount of evidence on the question of what a proportionate response is and whether a threat is

“serious” or “imminent”. Some witnesses tended to feel that we needed a bit more explanation of the issue. The policy memorandum outlines the factors that might be considered, but the bill itself does not. In paragraph 42 of its report, the committee was inclined to seek some of that detail appearing in the bill itself. I note that the Government is not convinced about that and I accept that there are risks with being “overly prescriptive”.

The Government’s response refers to “providing definitions”, although I do not think that the committee was going as far as asking for definitions; it was asking more for a non-exhaustive list of factors. Again, there might be room for a bit of compromise on that point.

I know that the committee had serious concerns about the frequency with which the made affirmative procedure was being used, and we previously had a debate on that subject. I agree that there is a need for parliamentary oversight of that matter, so I welcome the Government’s agreement to lodge amendments at stage 2 specifically to require an explanation of urgency when the MAP is used.

I turn to the Henry VIII powers. The committee invited the Government to consider that point in the recommendation in paragraph 57 of its report. Therefore, I welcome the fact that Government is proposing amendments. We are seeking to strike a balance between the Government having the necessary powers to act in an emergency and Parliament fulfilling its role and duty to hold the Government to account.

We have to remember, too, that, although we currently have a nice Government that is headed by Nicola Sturgeon and John Swinney, there is always the remote chance of a nasty Government in the future, headed by Douglas Ross or someone like him, and we would not want that type of Government to have unlimited powers.

As I said at the beginning of my speech, there was a general welcome for the option of registering births and deaths online and for some licensing meetings to take place remotely or in a hybrid format. However, that comes with the proviso that some people are unable to take part digitally and that some situations are better handled in person—for example, sensitive discussions with a vulnerable person about what exactly should go on a birth certificate might best be had in person.

There was some concern at the committee about a conscious or unconscious drift towards more and more services being provided digitally and fewer and fewer being available in person. Local authorities are obviously also aware of the need for balance in that matter, but it was felt that

the Government should at least consider whether provision for stronger protection of in-person services should be made in the bill.

I am running out of time. I am happy to support the bill at stage 1. The COVID-19 Recovery Committee has made clear that it would like some amendments, so I look forward to seeing them at stage 2. The bill will help us to be better prepared for the next pandemic.

16:04

**Meghan Gallacher (Central Scotland) (Con):**

In 2020, the United Kingdom Government passed the Coronavirus Act 2020, which gave the Scottish ministers the ability to create regulations to protect members of the public against the spread of coronavirus in Scotland. At the time, the act was necessary, as it allowed Governments to have the freedom to make decisions outwith normal processes during the peak of the pandemic.

Fast forward two years and I am relieved that Governments are now focusing their attention on economic recovery across the UK. It was reassuring to see figures released today that show that, in the first quarter of 2022, the UK economy grew faster than the economies of the USA, France, Germany, Italy, Spain and the European Union. That demonstrates the UK Government’s commitment to getting our country back on track.

However, it is concerning that, following the Scottish Government’s Coronavirus (Scotland) Act 2020, the SNP now intends to make the powers in that act permanent. Although the Deputy First Minister announced measures on safeguards, the unpopular Coronavirus (Recovery and Reform) (Scotland) Bill would allow the SNP to impose lockdowns, release prisoners early and close schools without appropriate parliamentary scrutiny or votes. At this stage, although MSPs have heard the DFM’s announcement, we still do not know the wording of the amendment that the Government intends to lodge, so the bill will have to be taken at face value when we vote at decision time. Given that we do not know at this stage if or when another pandemic will emerge, as Alex Cole-Hamilton said, we should not be passing a blanket law, especially before a public inquiry has been completed.

My colleague Murdo Fraser highlighted that some of the bill’s provisions would provide much-needed longer-term reform, such as allowing nurses to administer vaccinations and enabling the digitisation of services in order to move them online. I agree that those proposals are sensible. However, following the announcement, there are still concerns that will require further consideration by MSPs. As Murdo Fraser said, although safeguards have been announced, there are

serious questions yet to be addressed, such as the proposed amendments to the bill.

There are flaws in the bill's provisions on education that could have a detrimental impact on our schools and other education facilities. During the peak of the pandemic, the Scottish Government had the power to close schools in response to outbreaks of the virus. That was, of course, to keep pupils and teachers safe. However, part 2 of the bill would allow the Scottish ministers to shut down schools and change term and exam dates without a vote taking place in this chamber. The EIS has said that the Scottish Government could use those emergency powers to close schools for other purposes, which is a cause for concern. That could upset the balance of power between local authorities and the Scottish Government. We know that the SNP is obsessed with power, but that would be a step too far, even for this Government.

When it comes to education, ministers do not need additional powers that would hinder our young people's ability to learn in the classroom. Ministers must use the powers that they already have to increase teacher numbers, reduce the attainment gap and improve school standards.

The overreach of the Scottish ministers speaks to a lack of trust in our university and college sector, as well as in local government. The NASUWT teaching union has expressed serious concerns about making permanent some of the powers under the 2020 act. The union raised concerns about the Government's contempt for scrutiny and the ability for Opposition MSPs to carry out their role of holding the Government to account.

Colleges have stated that the bill's provisions are not necessary. In its written submission to the Education, Children and Young People Committee, Colleges Scotland said:

"On the basis of this experience, we would advise that the intended provisions which have been proposed within the Bill are not required."

The Scottish Government could use other methods outwith the bill to implement measures in the event of another crisis. The Scottish Government should further consider that point, as preparation for an emergency could take place without the need to legislate.

With many education institutions speaking out against the bill, the Scottish Government must listen to their concerns, instead of using bizarre explanations—such as needing the power to shut down universities in case of right-wing defiance—to justify its intentions. The Scottish Conservatives believe that the bill should be scrapped. Ministers should be trying to empower our educational

settings, instead of trying to remove decision making from them as part of an SNP power grab.

The Scottish Conservatives have been clear in our position on Covid recovery, and some of our asks have already been implemented. There are other measures that we would like to be introduced, such as a national tutoring programme and a school catch-up premium, to ensure that our young people are front and centre in the Government's Covid recovery priorities.

I agree with the education institutions that have spoken out against the bill. I will vote to ensure that Scottish Government ministers do not implement a bill that, in its entirety, is not necessary and could create more problems than it resolves.

16:09

**Kaukab Stewart (Glasgow Kelvin) (SNP):** I refer to my entry in the register of members' interests, as I am a union member.

I welcome the opportunity to contribute to the debate on this important bill, the sole purpose of which is to empower the Government to act swiftly in the interests of public health to prevent illness and death and to protect public services in the event of future outbreaks of this deadly virus.

I further welcome the Deputy First Minister's clarification that the Parliament will always be required to approve the use of the powers in the bill. Clearly defined caveats are also included in the bill and I will refer to those later in my speech.

The impact of the pandemic is fresh in our collective memory. The effect on our daily lives of the first and subsequent lockdowns will be felt in so many ways for years to come. We are enjoying some uplift of that and getting back to some kind of normality.

Staff in schools and other education institutions faced a hugely challenging situation, both in terms of how they delivered education to their pupils and students, and in terms of their duty of care. As someone who worked in education throughout the first lockdown in March 2020, I know that it was a complete shock to everyone involved when schools were closed overnight. We had to turn on a sixpence and adopt remote learning practices with little or, in my case, no experience. Nevertheless, we know that our schools and teachers were a real lifeline for children and families.

By the time of the second lockdown, at the end of 2020, with action from the Scottish Government on speeding up local delivery of technology and funding provided by Connecting Scotland to deliver tablets and wi-fi devices via various partners and schools, teachers and pupils were

much better prepared to teach and learn remotely. Improvements continue to be made there.

The bill's provisions underline that commitment to continuity of learning, and there are repeated caveats throughout, including in the sections that deal with the power to make provision

“relating to the continuing operation of an educational establishment for a specified period.”

The bill confirms that such a power is to be used only if it is

“a necessary and proportionate action for or in connection with protecting public health.”

What that ultimately means is that remote learning, which is nobody's preferred option—not teachers', parents' or children's—can be introduced quickly across the country if, and only if, it is deemed necessary and proportionate in the interests of protecting public health.

Having worked as a teacher before, during and after the lockdowns, I am fully aware of the challenges that have to be faced, and I understand the concerns of the teaching unions. I thank the NASUWT for its briefing, which was sent to all members and which outlined its concerns. The Deputy First Minister will have addressed some of those concerns during the updates that he has made today.

The reason for the bill is clear. The ability to act swiftly and comprehensively to save lives and protect services is absolutely vital. The commitment from the Deputy First Minister that the Scottish Parliament will always be consulted before the legislation is enacted is welcome, and it reassures me that the sole purpose of the legislation is to serve the public good in the event of a future deadly strain of the virus.

16:13

**Michael Marra (North East Scotland) (Lab):** In these spring days in Scotland, I suppose that things are beginning to feel a little bit more normal. We seem to be a society that is going about its business again. However, behind the doors, we are a country that is significantly broken. The collapse of services, the economic impacts and the grief that remains shows that our recovery has not really begun.

By most metrics, the record of the whole of the UK in response to Covid-19 has been truly dreadful. We are among the worst in the world for deaths, infections, and the economic impact that we are just beginning to feel fully. The full inquiry into the pandemic will unpick many of those issues. It should help us to learn the lessons, but nobody has been able to explain to me, to the parliamentary committee on which I sit or to members now or previously why the bill requires to

be passed ahead of the conclusions of that inquiry.

**The Cabinet Secretary for Health and Social Care (Humza Yousaf):** I thank Michael Marra for giving way, and I will elaborate on his points in my closing. However, neither he nor I have the gift of knowing how long such a public inquiry will take. Surely, it is crucial to have the powers, which are mirrored in English and Welsh legislation, to be prepared for the next pandemic.

**Michael Marra:** I will make a couple of points in response to that. We already have legislation on the books, which will last until September. As a Parliament, we have been able to extend that legislation quite easily and at short notice, and that option remains open to us. The cabinet secretary does not know what the next pandemic will be or what preparations will be required. It is far from certain that the necessary provisions are in the bill before us.

One of the principal reasons for our country's dreadful record in handling the pandemic is that we were acting to the wrong plan—we were acting to a plan for a flu pandemic, not to one for the pandemic that we actually faced. The mistakes that were made at the outset have become ossified in public policy. At times, we still appear to treat Covid as a disease that is spread in droplets, rather than as the airborne pathogen that it has been proven to be.

That fatally undermines our current consideration of preventative measures, such as ventilation, the importance of which is far too routinely dismissed by the Scottish Government, in spite of the available and growing global evidence. A large study that was carried out in Italy showed that six air changes in an hour in a classroom will reduce infections by 82 per cent. The findings of a recent major study by the University of Leeds show that the use of high-efficiency particulate air filters is an effective back-up when high-performing mechanical ventilation is unavailable.

There is a wealth of growing evidence, yet the Scottish Government has refused requests for roll-outs of such devices, has commissioned no scientific trials of its own and seems to be locked into a mode of thinking that is based on outdated guidance and plans; its approach is based on treating Covid as being spread through droplets rather than as an airborne pathogen and on cleaning surfaces rather than providing ventilation.

All of that is an illustration of a tendency that is common in all Governments, which we—as an Opposition and as a Parliament—must work strongly against: a tendency to fight the previous war rather than the war that we are in. We must work against the tendency to fight the previous pandemic rather than the one that we face.

It is bad enough that, as a country, we failed to prepare and to respond timeously to emerging evidence and lost many thousands of our fellow citizens as a result. Now, we are being asked to set the response to the previous pandemic in the laws of the country, when we do not know the shape of what will come next. Nobody has given a reasonable explanation. I am attempting to illustrate that that is not a step without risk. The next Government will reach for what is at hand, and it is our responsibility to make sure that the mistakes of the current Government are not repeated.

The overwhelming view of those who submitted evidence to the Education, Children and Young People Committee was that the laws that are proposed are replete with risk. The Government invited the committee to ignore 90-odd per cent of respondents, but the evidence that followed was no less supportive of their position.

Our universities want to know why a Government minister is better able to understand the consequences of closing a lab than a university professor is. Our colleges want to know why a Government minister better understands the physical proximities that are involved in, and the practical restraints on training than a lecturer or a technician does. Given their consequences, such decisions are better made in discussion. The Cabinet Secretary for Education and Skills said as much in her evidence, and she was keen to emphasise how well such discussions had gone this time around. It seems that that is a reason not to have them again, when we might face a different pathogen with different behaviours.

The committee also listened to significant concerns that the bill might not be compatible with the European convention on human rights. Those concerns, along with the constructive proposals that have been made for other possible models of legislative framework bills—those have been mentioned—and the idea of having draft bills waiting for parliamentary approval should they prove to be appropriate, have, to date, all been summarily dismissed by ministers. Those suggestions do not come from libertarian, anti-vaxxer conspiracy theorists who are determined to thwart the work of Government. They come from the public payroll organisations that have been partners in tackling the pandemic, and they deserve to be listened to.

16:18

**Gillian Mackay (Central Scotland) (Green):** I apologise to members for the fact that I will be absent from the chamber during closing speeches. I am stepping in to give this speech on behalf of another member who is unwell, and I have another engagement during the closing speeches. I will

return as quickly as possible, and I thank the Presiding Officer for her tolerance.

The process of passing two pieces of emergency legislation at the height of the first phase of the pandemic, and before remote participation arrangements had been made, was a difficult one for the Parliament, but it was one that I believe showed us in our best light: responding to a crisis—in general, collegiately and with common purpose.

However, the coronavirus acts that were passed did not get everything right. One of the key questions that we are presented with today is whether we want to leave ourselves in the position of needing to go through that process again. Do we want to delay potentially life-saving and self-evidently obvious actions even for a matter of days, if we are again hit by a pandemic that is unlike anything that has been experienced in living memory? Alternatively, should we consolidate what we have learned from our experience of Covid so that the necessary powers are available, in the event that they are needed?

I welcome the Deputy First Minister's commitment to introduce a gateway section, which is something that the Greens were keen to see to address perfectly valid concerns about the primacy of Parliament over Government. In the previous session, the Greens amended the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill, with amendments that were designed to provide appropriate limits and safeguards on the Henry VIII powers that were being afforded to the Government through that process. I am glad to see similar restraint being shown now, without it unduly interfering with the Government's ability to fulfil its obligations to the public during a future health crisis.

Beyond the powers that are specific to the circumstances of a public health emergency, we can all recognise that some of the changes that were introduced in the two coronavirus acts simply made sense and should probably have been the case all along.

The most obvious example of that is that processes that previously had to be completed in person and by using hard-copy papers can now be done digitally. If we are committed to delivery of efficient, effective and easily accessed public services, a return to the pre-pandemic situation in that respect would clearly be a retrograde step. Those provisions will be of particular benefit to people in more rural communities, for whom the reality of travelling to a council office to register a relative's death is quite different to that of urban residents.

It is important to highlight that that is not an either/or situation. The Association of Registrars of

Scotland was right to point out that, for some people, the opportunity to complete such a process in person is important, whether for personal reasons, because of lack of digital access or some other circumstance. It is not permission for councils to move some services entirely online.

During the two emergency bill processes, Green MSPs put considerable effort into provisions on housing—specifically, protection of tenants, including those in purpose-built student accommodation. Since then, we have joined the Government on the basis of an agreement that includes our proposal for a new deal for tenants, which is now being taken forward by Patrick Harvie in his role as the minister who has responsibility for tenants' rights.

We felt that it was far too easy before the pandemic for landlords to evict tenants; it is still too easy now. The protections that were brought in in 2020 made a real difference to many people who were at risk of losing their homes. There is no good reason for going back to where we were before—a system in which all the cards were stacked in favour of landlords.

A number of other progressive provisions that were first introduced in the context of the emergency are now, appropriately, being extended. Those include the bankruptcy protections that were—if I remember correctly—first pushed for by Jackie Baillie.

The duty on providers of purpose-built student accommodation to take account of the chief medical officer's advice should avoid any repeat of the scenes that we saw at the Murano Street student village in Glasgow, and elsewhere, in autumn 2020. There are other provisions that I am glad to see being included, but do not have time to cover now.

The bill takes a pragmatic approach to maintaining the improvements that were brought about as a result of our response to the pandemic. It gives the Government the powers that it would need in the event of another such crisis, and the amendments that have been confirmed today will strike the appropriate balance between parliamentary oversight and Executive action. For those reasons, the Greens will support the bill.

16:22

**Jim Fairlie (Perthshire South and Kinross-shire) (SNP):** We have all seen them: the bad boys in my school used to get themselves expelled by abusing them, which is something that ministers should take note of. I mean the little glass-fronted cases with a hammer hanging on a chain and a message that says, "Break glass in case of emergency."

If the Government had included that sort of fire alarm warning in the bill, it might have tempered some of the more ludicrous overhyped descriptions of what the bill actually is. As my colleague John Mason pointed out, there is a lot in the bill that the committee broadly agreed on. I was particularly keen to stress digital exclusion and the ability of service users to continue having face-to-face meetings if they choose to do so. I am glad that that has been heard.

To continue on the theme of agreement, I say that we can surely all agree that we were not fully prepared for a pandemic before Covid hit us. The various desktop exercises and plans that existed turned out not to be entirely adequate for the reality. It would be a catastrophic mistake to go back to where we were. I do not often quote Winston Churchill, but

"Those who fail to learn from history are condemned to repeat it."

Let us not forget that when Covid struck there was no possibility of breaking the glass in case of emergency, because we did not have the powers to do so. Had the Scottish Government not extended the powers and put them in our statute book, they would have fallen here, too, when they fell in England and Wales. The Coronavirus Act 2020 was, in effect, parent legislation allowing the Scottish Government to continue protecting the Scottish people with Scotland-centric thinking.

My committee colleague Alex Rowley raised his genuine and principled concerns about the Henry VIII powers—concerns for which there was genuine sympathy right across the committee. Thankfully, it is clear that, following our evidence session, the Deputy First Minister has taken those concerns on board and delivered what I believe to be an eminently sensible solution—a trigger section that means that the powers will be exercisable only in the event of a genuine emergency, as dictated by professionals who are charged with delivering the kind of support that we saw during the pandemic.

In committee, I put it to Professor de Londras that the bill simply means that, in a legislative sense, we are preparing ourselves for the future, so that in the event of another emergency we will have the legislative competence to enable us to deal with it in this Parliament. I asked her whether that was a fair assessment, and she said:

"Yes, that is exactly right."—[*Official Report, COVID-19 Recovery Committee*, 3 March 2022; c 11.]

Only after an emergency has been declared and Parliament has had time to debate it will the Government be able to lift that wee hammer and smash the glass to release the powers. Indeed, it was Tory member Sandesh Gulhane who, following a portfolio question that Jackie Baillie

asked in the chamber on 23 March, asked for that provision in the first place.

**Alex Cole-Hamilton:** Will the member take an intervention?

**Jim Fairlie:** I ask Alex Cole-Hamilton to give me a second.

Not only has that provision been delivered, but the Government has gone further. I hope that Alex Rowley is satisfied with that.

**Alex Cole-Hamilton:** Jim Fairlie talked about the time that would be taken by the Parliament to debate and to allow the smashing of the glass with his hammer, under emergency legislation. Does he not recognise that this Parliament has shown itself to be eminently capable of turning primary legislation around in a matter of hours to respond to imminent threats? Does he not see that we could do that again?

**Jim Fairlie:** I absolutely accept that there is the possibility for that to happen if the Parliament can sit, but the member has no idea what the next pandemic or the next emergency is going to be. It is therefore required that we have legislation sitting ready to go.

The real irony in the debate is that, as has been mentioned, the bill just brings us into line with England and Wales, which already have such powers. One has to wonder why the Tories are so desperate to hamstring this Parliament's ability to act quickly and effectively using powers that are ready to use at a moment's notice.

I concede that the Henry VIII powers are controversial, but I am satisfied with Mr Swinney's announcement today. However, I will make one final point. Opposition members are absolutely right to point out that the powers go further than the England and Wales powers in respect of what is available under health protection legislation. Although they are comparable to those in schedule 19 of the Coronavirus Act 2020 and section 45F(2) of the Public Health (Control of Disease) Act 1984, neither of those UK acts contains Henry VIII powers.

However, the UK Government has—and has used—the Civil Contingencies Act 2004, which, in effect, gives it the right to impose Henry VIII powers over anything that it likes if it declares an emergency. The Tories' objection to the relevant part of the bill seems to be that although it is okay for Westminster to hold such powers for all scenarios, the Scottish Government must not hold the same powers even if they are exercisable only after parliamentary approval. Their position simply makes no sense.

The Scottish Government has listened to the committee's genuine concerns, which were ably put by Mr Rowley. It has made the distinction,

modified its thinking and proposed a measured piece of legislation that will be on our statute book for the time—that will arise—when we need to break the glass in an emergency.

16:28

**Miles Briggs (Lothian) (Con):** In the time that I have for my comments, I want to concentrate on part 4 of the bill.

The wide-ranging powers that were brought in during the pandemic, including on the removal of eviction grounds, were supported as an emergency response to the pandemic. We all want to see good and responsible landlords, and I believe that the vast majority of landlords across Scotland are indeed responsible. It is obviously in the interests of all parties that they work to secure tenancies, but also that tenants are supported and sustained when they face financial difficulties.

If there is one thing that we know—this is important and I hope that ministers will listen to it—it is that changes in policy and interventions in the property market can often result in changes in behaviour by property owners, such as decisions being taken to remove properties from the rental market. I think that Michelle Thomson pointed to the key concern, which is that the proposals in part 4 of the bill do not take into account the wider private rented sector and that they pre-empt and prejudice the outcomes of the Scottish Government's proposed housing bill—and, indeed, as has been highlighted, the consultation on the draft strategy "A New Deal for Tenants".

Housing policy in Scotland and across the developed world is littered with unintended consequences, as the convener of the Local Government, Housing and Planning Committee highlighted. I very much share the concerns about the possible loss from the rental market of affordable homes that the bill could drive.

**Patrick Harvie:** I put it to the member that that is a slight overreaction to the measures in the bill. Pre-action protocols are already standard practice; they are required in the social rented sector and we have been told that they are best practice in the private rented sector. As for making repossession grounds discretionary, none of that prevents any landlord from seeking repossession; it means only that their circumstances and those of their tenant will all be taken into account when the decision is made.

**Miles Briggs:** Maybe the minister needs to consider all the organisations and individuals who will be affected by the changes and who have put forward their concerns. The Government's response—the Deputy First Minister's response—to our committee report stretched to just 23 words, basically admitting that the Government



acknowledged those concerns. However, we have heard nothing about that today. Consideration of proposals on individual aspects of the private rented sector in complete isolation from the wider market does not allow for proper parliamentary scrutiny. Sadly, as a committee, we have not been able to do that proper scrutiny.

Rural Scotland is perhaps most vulnerable to the housing crisis. The potential impact of the bill on the supply of and demand for rented properties in rural Scotland should be of concern to us all, including SNP and Green ministers, who do not seem to be taking those concerns as seriously as they should.

The concerns are being expressed across the rural sector. Key stakeholders include Scottish Land & Estates, the Scottish Association of Landlords, the Scottish Property Federation, NFU Scotland and the Church of Scotland—which has already been mentioned—as well as individual landlords. As stated in their letter to the Deputy First Minister, Scottish Land & Estates, the Scottish Association of Landlords and NFU Scotland believe that the Scottish Government is misusing Covid legislation to push through housing elements of the agreement between the SNP and the Scottish Green Party.

A key component of the solution to the housing crisis in Scotland is the supply and improvement of homes for rent. Ministers have undertaken no work to consult on or assess the impact on those issues, and the sector wants a pause so that we can understand the potential situations that tenants will face, and the unintended consequences. Given the increases in interest rates and the cost of living crisis, rental properties are essential, and any measures that could be detrimental to their provision need to be fully understood and considered. Sadly, the bill has not achieved that to date.

The real and concerning impact that part 4 could have on the supply of rental properties and their potential removal from the market appears not to have been fully considered by the Scottish Government. I hope that ministers will pause and consider the real impact of the bill, as they have suggested they will do at stage 2. The Scottish Conservatives will lodge amendments to part 4 at stage 2. I hope that there will be engagement from across the chamber on the issue. It is important that we consider those unintended consequences for the property market in Scotland.

16:32

**Katy Clark (West Scotland) (Lab):** I am a member of the Criminal Justice Committee, so I will focus on that aspect of the legislation. Audrey Nicoll, the convener of the committee, has already

spoken to our report. The issues that I will raise relate largely to process rather than fundamental principle—other than in relation to the extension of time limits, which I will deal with later.

A number of the provisions in the bill will result in significant changes to the criminal justice system, some of which are complex. However, the committee was unable to scrutinise many of those measures in detail, due to the time constraints resulting from the truncated nature of the process. It would have been more appropriate for some of those provisions to be brought forward in standalone legislation, with a timetable to enable the full scrutiny process, particularly given that even some of the temporary measures could be in place until 2025.

I will focus on specific aspects of the bill. The first relates to remote custody appearances, which the Scottish Government has indicated it wishes to become a normal part of the justice system. Our understanding is that there is considerable concern in the legal profession and the wider justice system about remote custody appearances, which were enabled by the emergency Covid legislation and are therefore operating currently.

For example, in the Glasgow custody court last Monday, the court ran until half past 9 at night due to a range of technical problems. I know that because my colleague Pauline McNeill attended the court and witnessed what happened. We understand that that is far from being an unusual occurrence: in their evidence to the committee, both the Scottish Solicitors Bar Association and the Law Society of Scotland said that those appearances are often subject to technical problems.

Concerns have also been raised about the greater difficulty that lawyers have in obtaining instructions from an accused person, and the Scottish Association of Social Work expressed its concern about access arrangements. These are significant changes to how the legal system operates in Scotland, and I believe that they are matters that the Criminal Justice Committee and the wider Parliament should have had the opportunity to find out a great deal more about.

Another aspect that I will focus on is virtual trials. As the committee's report states, there is very little evidence that full virtual trials have taken place. Therefore, there is very little evidence on how they are working. What is clear is that aspects of trials have been virtual, such as people giving evidence virtually via a link, or remote jury trials taking place in cinemas. I am concerned about some of the undertakings from ministers, and I ask that an attempt be made to ensure that those trials go ahead only when everyone agrees, and that there is proper scrutiny of how they operate.

The provisions of the bill that give me greatest concern in relation to justice and human rights are those relating to the extension of time limits, which is already in place as a result of the emergency Covid legislation. The bill proposes that, on a temporary basis—which could mean until 2025—the extended statutory time limits are continued. There are some minor changes to the provisions, but, in general, they are very similar to the provisions under the emergency Covid legislation. That means that it could take far longer for a case to come to court.

Perhaps of even more concern is that the length of time for which a person can be held on remand is also being extended. For example, a person could be held on remand for nine months before they are served with the indictment, which contains the full charges that they face. Scotland has the largest remand and prison populations in western Europe, along with poor conditions and overcrowding in many parts of the prison estate. Between 2014 and 2017, 57.18 per cent of prisoners who were later convicted in summary cases, and 28.9 per cent of prisoners who were later convicted in solemn cases, did not receive a custodial sentence at the end of the proceedings. There are considerable human rights concerns about that aspect of the process. There would never be a situation in which a person who should be in prison was not, because there has always been provision in Scots law to have time limits extended on cause shown.

**The Presiding Officer (Alison Johnstone):** Please conclude.

**Katy Clark:** I believe that those are fundamental issues that members in the chamber today should be concerned about.

**The Presiding Officer:** Willie Coffey is the final speaker in the open debate.

16:18

**Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** Our Local Government, Housing and Planning Committee focused its attention on tenancy issues, which are contained in part 4 of the bill. The whole committee was content to support the proposals by the Scottish Government, including our Tory and Labour colleagues, who supported the provisions then but who will vote against the bill in about 20 minutes. That is very curious.

There are two key proposals in the bill to retain temporary measures that were introduced to protect private sector tenants from eviction during the Covid period. One proposal is to continue to make all eviction cases that go to the housing and property chamber of the First-tier Tribunal for Scotland discretionary rather than mandatory, as

they were pre-Covid. The other is to require landlords to carry out pre-action protocols concerning grounds for evictions due to rent arrears.

For what I hope are clear and obvious reasons, those measures were necessary during Covid to protect people from eviction from their tenancy in the private rented sector during a major health pandemic. The Scottish Government is asking Parliament to agree to retain those measures.

All eviction grounds have been discretionary in the social rented sector for around 20 years, and the proposal to retain that in the private rented sector basically aligns both sectors and continues that level of protection for tenants. That has meant a fairer approach for tenants and balances the needs of tenants and landlords a bit more.

Shelter backs both proposals. Its submission describes the measures as important and progressive, and it says that they will help support tenants to keep their homes wherever possible and will prevent homelessness.

We must remember that the discretionary element does not prevent landlords from pursuing an eviction, should that be necessary, and that point was well made during our committee's work. However, it provides additional comfort that circumstances must be taken into account before a decision is taken.

It is fair to say that some landlords are concerned by the measure and some fear that landlords with perhaps one property or only a few properties might opt to leave the sector. However, Matt Downie from Crisis argued that the issue is not about whether landlords will or will not leave the sector but simply that the discretionary element allows the support needs both of the tenants and of the landlords to be taken into account, which was never the case before. He described it as a commonsense move that could be to everyone's advantage.

The minister also commented that the measure does not fundamentally alter the rights of landlords but provides a fairer balance of rights for everyone. In its response to our committee's report, the Government has given an assurance that it will liaise with the First-tier Tribunal to monitor eviction cases.

Part 4 of the bill also retains the pre-action protocol provisions that have also been in place in the social rented sector for some time. Those basically mean that things such as having clear information on the tenancy and the level of arrears in question, stating the rights of the tenant, signposting to support and advice, making a reasonable effort to agree a payment plan with a tenant, and giving reasonable consideration to any steps that a tenant has taken to address their

situation are all recommended. Although those steps are not mandatory in themselves, the tribunal can take them into account and consider whether a landlord has complied with the protocol before granting a decree for eviction.

The Scottish Association of Landlords does not have any objection to that measure and says that the measures represent what it has always considered to be best practice anyway, with landlords trying to engage with tenants and trying to help them to overcome the problems so that, ultimately, they can sustain their tenancy.

Not many positives have come out of the Covid experience for anyone. We might cite, as others have done today, the deployment of digital technology in a number of settings, not least in the Scottish Parliament, to allow activities to continue to function. In many areas, the ability to work online meant that people could stay in a job or continue to do business. That has been a revelation to many of us with regard to how we can work in future. However, I think that the two measures in part 4, which were brought in temporarily to try to protect people from eviction during a public health emergency have also been particularly helpful and are worthy of retaining on a permanent basis.

I hope that the Parliament agrees the principles of the bill at stage 1, and these measures are an important part of that. Protecting people who face eviction by supporting both tenants and landlords is something that is worthy of being put before the Scottish Parliament, and I am happy to support the bill today.

16:43

**Alex Rowley (Mid Scotland and Fife) (Lab):** In closing today's debate for Labour, I restate the point that I made to John Swinney in committee, which is that, with the co-operation of the Greens, the SNP can force this legislation through but that, if it does so, we will end up with another piece of poor legislation that will, without doubt, remove powers from this Parliament and place them in the hands of the Executive. I have listened carefully to what John Swinney said today, and I will address that.

I also want to restate a point that I have made previously. There is much in this wide-ranging bill that is good and has support, as we have seen from the evidence sessions that were conducted by all the committees that took evidence on various aspects of the bill.

I said that the bill is wide-ranging, and I would suggest that it is too wide-ranging. The Parliament must have the time and space that is needed to do justice to the issues that require attention and

come up with good legislation that will address them.

Let us take justice as an example. There is no doubt that the pandemic has caused major problems, but it is also clear that there were major problems before the pandemic that required action. As Katy Clark said, the fact that Scotland has the highest remand and prison population figures in western Europe along with poor, overcrowded conditions in many prisons should be a concern across the chamber. Is a catch-all Covid recovery bill the best approach to that? I think not—and I note that the Criminal Justice Committee said time and again in its report that it had limited time to scrutinise the bill.

I turn to education. As a di of four grandchildren—in Fife, di means grandad—I really worry about the impact that Covid has had on education and the downward spiral that we saw pre-Covid. The changes for education in the bill give me no confidence that the Government is even beginning to get on top of the issues in education, and I have concluded that the bill will do little to aid the recovery and reform of Scottish education, which are desperately needed at this time. We must do more to rebuild education in Scotland, and that must be a priority.

I turn to the parts of the bill that the COVID-19 Recovery Committee considered. Many positive aspects were discussed in looking at the evidence. However, there is one part of the bill that is, for me—and, I hope, for the Parliament—a red line: the so-called Henry VIII power.

When I first heard Murdo Fraser talk about a power grab, I thought that that was a bit rich. However, the more I looked at the evidence, the more I realised that the proposal was to remove powers from the Parliament, which is the legislator, and put them into the hands of ministers, who are the Executive. We can frame that however we like, but that would remove power from the democratically elected Parliament and put it into the hands of ministers. That is not acceptable under any circumstances, and we need to address that.

The written submission from Dr Andrew Tickell and Professor Alison Britton of Glasgow Caledonian University states:

“we conclude that the main provisions of Part 1 of this Bill are generally in keeping with the law already applying in England and Wales ... and will establish a more flexible and resilient framework for coordinating the public health response to any future ... health emergencies”.

That is good, but they went on to say:

“As currently drafted .. the Bill includes one highly problematic element which has not been adequately explained or justified by the Scottish Government.”

The Henry VIII powers empowered the then King

“to make law without reference to the English parliament in 1539.”

Now, in 2022, the SNP wants to do similarly, and take powers from the Scottish Parliament. As Tickell and Britton put it,

“While powers of this kind have been used by the UK government to adapt the statute book to the United Kingdom’s departure from the European Union, Henry VIII powers are rightly controversial, as they infringe upon the separation of powers, give legislative functions to the executive, and can be imposed with modest opportunities for parliamentary scrutiny, particularly in circumstances when they are used on an emergency basis.”

Although I welcome and will study closely what Mr Swinney had to say, I ask the Government to think again about what is certainly a red line for Labour.

I acknowledge that there is much support for aspects of the bill, no more so than from Crisis Scotland, whose brief I read this morning—it makes a very strong case for part 4 of the bill. Therefore, let us work together to build the future, look at where we can find compromise and move forward in the Parliament to build a better future for Scotland.

16:49

**Jamie Greene (West Scotland) (Con):** At the beginning of the pandemic, members came together in good faith to respond to the very real and severe threat that Covid posed to every one of us. Lives were at risk and we had to act fast. Of course, we did not get everything right as legislators, but we can be proud of the fact that we acted quickly, nimbly and mostly constructively when needed, going from stage 1 right through to royal assent in record time.

The First Minister, though, has stated that the current direction of travel is to get back to normality as quickly as possible while maintaining vigilance against future outbreaks. The Deputy First Minister and Cabinet Secretary for Covid Recovery, Mr Swinney, has said:

“We want to ensure we remove measures no longer needed in order to respond to the pandemic whilst keeping those where there is demonstrable benefit to the people of Scotland”.

I do not disagree with that—vigilance is prudent—and I do not disagree with the thrust of Mr Swinney’s argument that some adaptations to the delivery of public services, such as digitisation, are useful; frankly, some of them should have happened sooner. Now that they are here, some might be here to stay; we all accept that, but our argument is that the bill goes far too far and contains measures that are no longer necessary or of “demonstrable benefit”, to use Mr Swinney’s phrase.

He also said that the bill is “necessary, proportionate and appropriate”, and I want us all to be mindful of those three words as we go through the bill process. Some of the measures that we took in the past may be necessary in the future, and some of the powers that we gave the Government in that scenario may be appropriate when needed, but proportionality is a whole different ball game.

The bill has been called a power grab by many, but that oversimplifies what is a grave attempt by the Government to retain extraordinary powers. In the previous session of Parliament—many members here were also members then—the Parliament was cautiously uneasy about affording the Government those powers in the first place. We did it because we had to, but at no time was there any suggestion that we would be asked to give the Government those powers on a permanent basis—anything but.

It is depressing that the parliamentary arithmetic will probably result in the bill passing, and that the many concerns that have been voiced within and outwith Parliament will be ignored. My colleague Murdo Fraser rightly pointed out that the depth of concern started back in the consultation process.

One phrase in the COVID-19 Recovery Committee’s report jumped out at me. It states:

“the Scottish Government has not made a sufficient case for why the powers should be made permanent.”

The Government did not make a sufficient case then, and it still has not made a sufficient case. The committee heard that there were viable alternatives to the so-called Henry VIII powers, including the removal of the provisions entirely until a public health emergency arises. That would give Parliament a proper say in passing new emergency laws. We did that before, and I ask why we cannot be trusted to do it again. That is a point that Jackie Baillie, Alex Cole-Hamilton and many others made and that the Government is yet to answer.

It is not just politicians who have concerns about the bill. The Law Society warned:

“These provisions have the potential to result in very significant restrictions on liberty being imposed by Regulation, with reduced opportunities for parliamentary oversight and scrutiny.”

It also said that the bill

“creates a risk of misuse, or”—

worse than that—

“of powers being used in error.”

I am afraid that the use of those powers is not reflected in equivalent legislation in other parts of the UK, no matter what we have heard today.

**Jim Fairlie:** Will the member take an intervention?

**Jamie Greene:** I will in a second.

In fact, the suggestion that the powers are reflected elsewhere is not only unhelpful but misleading. Let me explain where there are differences. As drafted, the bill includes the power to modify or amend any enactment—any piece of legislation. Ministers want that power, but it is simply not found elsewhere.

**Jim Fairlie:** Will the member take an intervention?

**Jamie Greene:** I am happy to give way in a second.

I will mention another point about the UK legislation that is deeply personal to me. The ability of ministers to remove early release and reduce people's prison sentences is unlimited in the Scottish bill but, in UK legislation, it is capped at 180 days, which is sensible. We will give the Scottish Government the benefit of the doubt—let us see what stage 2 amendments are lodged on that.

The affirmative procedure is not the same as the three-stage process that primary legislation goes through, which is sacrosanct to us in a unicameral Parliament. In fact, I would go so far as to say that regulations are dealt with on the basis of simple vote majorities, and that they are also victims to the whims of political majorities, as was the case with the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill and other so-called emergency law.

As I said, there are some sensible and reasonable justice-related provisions, which we support, but there are others that we do not. Virtual trials have been widely condemned by many. The senators of the College of Justice said that video hearings should not become the norm, because

“the dignity and solemnity of the court room are missing in a video conference.”

The Faculty of Advocates, the Scottish Solicitors Bar Association and many others have raised concerns about that.

I will briefly raise the main concern about early release. That power was used in emergency situations, and 348 people were granted early release under it. [*Interruption.*] Members on the Government front benches might want to hear my points.

Of those 348 people, 142 reoffended within six months of their early release. That should be a statistical alarm bell in every one of our ears. To be frank, I am afraid that that is not a risk that

members on the Conservative benches are willing to take.

The COVID-19 Recovery Committee was also divided on fiscal fines, and many other things.

**The Presiding Officer:** You will have to conclude now, Mr Greene.

**Jamie Greene:** In closing, I want the Government to think about two final things. The first is that I am afraid that nothing about the bill feels very consensual. We have heard the speeches today, and the committee was split over its report—the fact that a casting vote was needed should have been a warning sign. My second and most important point is that I urge the Government to take cognisance of the debate. The speeches were powerful in their combined attempt to protect the sanctity of the separation of powers of Parliament and executive.

**The Presiding Officer:** You must conclude, Mr Greene.

**Jamie Greene:** Let us not cross that line on a permanent basis. We do so at our peril.

16:56

**The Cabinet Secretary for Health and Social Care (Humza Yousaf):** As the cabinet secretary who is responsible for part 1 of the bill, which includes public health protection proposals and arrangements for vaccination and immunisation, I am pleased to close the debate for the Scottish Government.

It has been an interesting debate that has touched on not only public health policy but many other aspects of the bill, and I hope to spend most of my time trying to address some of the points that have been raised. The Deputy First Minister, other Government ministers and cabinet secretaries and I will continue to engage with members of the Parliament and important stakeholders in advance of the parliamentary processes that the bill still has to go through.

I thank the five scrutiny committees that worked on stage 1—supported, of course, by full and thoughtful briefings from external stakeholders and the Scottish Parliament information centre. As Siobhian Brown, convener of the lead COVID-19 Recovery Committee has said, no stone was left unturned in scrutiny of those proposals.

In the Government's view, that demonstrates the Parliament's adeptness at scrutinising longer, more complex and cross-portfolio bills. We remain of the view that it was best to group the range of proposals that are being consulted on into a single bill, intended for commencement from September 2022.

Following the Government's response to stage 1 reports at the beginning of the week, there has been a full debate on our position on stage 2 amendments, and I have listened carefully to all the points that have been made. I hope that those members who often talk about railroading or bulldozing legislation will have listened carefully to what the Deputy First Minister said about the compromises that we are willing to make. Any objective view on those compromises would be that we are wanting to give the Parliament further scrutiny over the measures and powers in the bill.

**Jamie Greene:** The Government could agree to take the good bits of the bill on which there is consensus across the chamber and package them up as a piece of legislation, which we would agree to and pass, and ditch the bits that are hugely controversial, because that would protect the primacy and sanctity of the Parliament.

**Humza Yousaf:** I was going to come to that point.

**Jim Fairlie:** Will the member take an intervention?

**Humza Yousaf:** I will respond to Jamie Greene, and then I will give way.

The emergency powers are required to respond at quick speed. If we simply take legislation off the shelf to deal with a particular pandemic or emergency, it might be inadequate, so we would have to enact emergency legislation, which would take days. As the cabinet secretary for health who is dealing with the immediate pandemic, I can tell you that every day counts. We cannot afford to do that.

I will give way to my friend Jim Fairlie.

**Jim Fairlie:** To go back to the point that I was trying to raise with Jamie Greene, Andrew Tickell has made this statement today:

"Most of what this Bill does is extend the powers which already exist on a permanent basis in England and Wales under the 1984 Public Health Act to Scotland on a permanent basis—which seems unobjectionable to me."

Sandesh Gulhane asked for a 90-minute debate in order to release the powers that are going to be held in situ. Surely, if members want something packaged up, the kinds of measures that are being taken by the Government would give them what they are looking for.

**Humza Yousaf:** That is the very point—those powers exist in England and Wales. The UK Government has sweeping and widespread powers over public health protection. We are suggesting that we should also have emergency powers. We propose not only that we provide a statement of why those emergency powers and regulations should be enacted, but that the Parliament should authorise that. Therefore,

anyone who suggests that the Government could impose a lockdown without Parliament's authorisation has not listened to what the Deputy First Minister has said.

I appreciate entirely that the devil will be in the detail and that members will want to examine the amendment closely. That is absolutely appropriate. I will read again what we are proposing.

To ensure that necessary parliamentary oversight is in place, the Government will lodge amendments to introduce a gateway vote mechanism, which would mean that key aspects of the public health protection and educational continuity powers would have effect only if a parliamentary vote, on a formal Government declaration, is held and the declaration approved. That would allow the Parliament to enact those powers with the confidence that lockdown, school closure and other emergency response measures could be imposed only in the event of a future public health threat, in an emergency situation, and if the Parliament has so authorised.

That is the critical point. I reiterate that we respect the fact that the Parliament will want to see the detail of those amendments at stage 2, but I ask members to wait to do so in good faith. If they did that in good faith, they would not vote against the general principles of the bill at stage 1.

**Brian Whittle (South Scotland) (Con):** The cabinet secretary and I have had this conversation before, and I have also had it with the Deputy First Minister. Surely the pandemic highlighted the shortcomings in the national health service's information technology and education systems and in data gathering and usage. We also allowed the recommendations from the Silver Swan exercise to slide. Surely, it is the readiness and preparedness that we need to focus on. That would have the desired effect in helping us with future emergencies. I do not see anything on that in the Government proposals.

**Humza Yousaf:** I have the greatest respect for Brian Whittle, but he needs to read the bill carefully, because the powers over preparedness are one of the key aspects of the bill. The emergency powers are the other part. Through this bill, we are seeking powers similar to those that the UK Government already has.

A number of issues on the justice provisions were raised. In particular, Audrey Nicoll made very powerful arguments around some of the disagreements that exist in relation to virtual trials. That is why the Government's approach is sensible. Those powers are in there temporarily, and we are holding consultations—one of which launched today—on some of the justice

provisions. We will bring forward our thoughts on the back of those consultations.

Katy Clark spoke well and powerfully about the human rights implications and impacts in relation to the time limits. My colleague, the Cabinet Secretary for Justice and Veterans, and I will continue to give her and this Parliament very strong assurances that that is why the powers are temporary. We understand those human rights. The measures are being brought forward and extended at this point only in order to reduce that backlog. In itself, that backlog has huge human rights implications and impacts on many men and women across Scotland.

In relation to some of the other points that were made on education by Stephen Kerr and a number of other members across the chamber, we are continuing our engagement. The Cabinet Secretary for Education and Skills and Scottish Government officials have had continual engagement. My colleague Shirley-Anne Somerville met Universities Scotland and Colleges Scotland as recently as 4 May. We will keep Parliament updated, and of course we are considering what universities, colleges, COSLA, EIS and others have to say in advance of stage 2.

I do not have time to go into detail on the issues that were raised around tenancies. I thought that my colleague Patrick Harvie, as well as Willie Coffey, made the point very well that all that the provisions do is enable the tribunal to take into account all of the circumstances relating to a case before making a decision. The points that Murdo Fraser raised about the concerns of the Church of Scotland are ones that we will reflect further on ahead of stage 2.

I will sum up, Presiding Officer—

**The Presiding Officer:** Please do.

**Humza Yousaf:** —simply by saying that, on the so-called Henry VIII powers and, perhaps more significantly, the addition of a gateway vote mechanism for any future regulations of an emergency nature, I hope that those provisions give some comfort to the Parliament. I hope that, collectively, the amendments give members and parties assurances that they can vote for the general principles of the bill.

I invite the Parliament to vote to learn the lessons of the pandemic, to complete the statute book and to put in place that resilience for whatever challenges may come in the years ahead.

**The Presiding Officer:** That concludes the stage 1 debate on the Coronavirus (Recovery and Reform) (Scotland) Bill.

## Coronavirus (Recovery and Reform) (Scotland) Bill: Financial Resolution

17:06

**The Presiding Officer (Alison Johnstone):** The next item of business is consideration of motion S6M-04263, in the name of Kate Forbes, on a financial memorandum for the Coronavirus (Recovery and Reform) (Scotland) Bill.

*Motion moved,*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Coronavirus (Recovery and Reform) (Scotland) Bill, agrees to—

(a) any expenditure of a kind referred to in Rule 9.12.3A of the Parliament's Standing Orders arising in consequence of the Act, and

(b) any charge or payment in relation to which Rule 9.12.4 of the Parliament's Standing Orders applies arising in consequence of the Act.—[*Kate Forbes*]

## Appointments to Scottish Fiscal Commission

17:06

**The Presiding Officer (Alison Johnstone):**  
The next item of business is consideration of motions S6M-04335 to S6M-04338, in the name of Kate Forbes, on appointments to the Scottish Fiscal Commission.

*Motions moved,*

That the Parliament agrees with the recommendation of the Scottish Government and the Finance and Public Administration Committee that Professor Graeme Roy be appointed as Chair of the Scottish Fiscal Commission.

That the Parliament agrees with the recommendation of the Scottish Government and the Finance and Public Administration Committee that Dr Domenico Lombardi be appointed to the Scottish Fiscal Commission.

That the Parliament agrees with the recommendation of the Scottish Government and the Finance and Public Administration Committee that Professor Francis Breedon be reappointed to the Scottish Fiscal Commission.

That the Parliament agrees with the recommendation of the Scottish Government and the Finance and Public Administration Committee that Professor David Ulph be reappointed to the Scottish Fiscal Commission.—[*Kate Forbes*]

## Business Motion

17:06

**The Presiding Officer (Alison Johnstone):**  
The next item of business is consideration of motion S6M-04375, in the name of George Adam, on behalf of the Parliamentary Bureau, on a stage 2 timetable.

*Motion moved,*

That the Parliament agrees that consideration of the Non-Domestic Rates (Coronavirus) (Scotland) Bill at stage 2 be completed by 31 May 2022.—[*Stephen Kerr*]

*Motion agreed to.*



## Decision Time

17:07

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

There are three questions to be put as a result of today's business. The first question is, that motion S6M-04310, in the name of John Swinney, on the Coronavirus (Recovery and Reform) (Scotland) Bill, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division. There will first be a short suspension to allow members to access the digital voting system.

17:07

*Meeting suspended.*

17:12

*On resuming—*

**The Presiding Officer:** The question is, that motion S6M-04310, in the name of John Swinney, on the Coronavirus (Recovery and Reform) (Scotland) Bill, be agreed to. Members should cast their votes now.

The vote is now closed.

### For

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Chapman, Maggie (North East Scotland) (Green)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)

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

### Against

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Choudhury, Foysol (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Dowey, Sharon (South Scotland) (Con)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Findlay, Russell (West Scotland) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Gulhane, Sandesh (Glasgow) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Hoy, Craig (South Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Lumsden, Douglas (North East Scotland) (Con)  
 Marra, Michael (North East Scotland) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)

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

**The Presiding Officer:** The result of the division is: For 65, Against 53, Abstentions 0.

*Motion agreed to,*

That the Parliament agrees to the general principles of the Coronavirus (Recovery and Reform) (Scotland) Bill.

**The Presiding Officer:** The next question is, that motion S6M-04263, in the name of Kate Forbes, on a financial resolution for the Coronavirus (Recovery and Reform) (Scotland) Bill, be agreed to.

*Motion agreed to,*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Coronavirus (Recovery and Reform) (Scotland) Bill, agrees to—

(a) any expenditure of a kind referred to in Rule 9.12.3A of the Parliament’s Standing Orders arising in consequence of the Act, and

(b) any charge or payment in relation to which Rule 9.12.4 of the Parliament’s Standing Orders applies arising in consequence of the Act.

**The Presiding Officer:** I propose to ask a single question on four motions on appointments to the Scottish Fiscal Commission unless any member objects.

No member has objected, so the final question is, that motions S6M-04335 to S6M-04338, in the name of Kate Forbes, on appointments to the Scottish Fiscal Commission, be agreed to.

*Motions agreed to,*

That the Parliament agrees with the recommendation of the Scottish Government and the Finance and Public Administration Committee that Professor Graeme Roy be appointed as Chair of the Scottish Fiscal Commission.

That the Parliament agrees with the recommendation of the Scottish Government and the Finance and Public Administration Committee that Dr Domenico Lombardi be appointed to the Scottish Fiscal Commission.

That the Parliament agrees with the recommendation of the Scottish Government and the Finance and Public Administration Committee that Professor Francis Breedon be reappointed to the Scottish Fiscal Commission.

That the Parliament agrees with the recommendation of the Scottish Government and the Finance and Public Administration Committee that Professor David Ulph be reappointed to the Scottish Fiscal Commission.

**The Presiding Officer:** That concludes decision time.

## International Nurses Day

**The Deputy Presiding Officer (Annabelle Ewing):** The final item of business is a members' business debate on motion S6M-04202, in the name of Jackie Baillie, on celebrating nurses on international nurses day. The debate will be concluded without any questions being put.

### *Motion debated,*

That the Parliament recognises that 12 May 2022 is International Nurses Day; understands that International Nurses Day is celebrated across the world every year on the anniversary of Florence Nightingale's birth; believes that this day is an opportunity to celebrate the contribution nursing staff make to people's lives and thank those working in health and social care across the country for all that they do; understands that the Royal College of Nursing is marking the day by asking staff and members of the public to share stories that demonstrate the best of nursing and, in Scotland, will launch the inaugural RCN Scotland Nurse of the Year Awards; acknowledges what it sees as the challenges and pressures nursing staff continue to be under as the country emerges from the COVID-19 pandemic; believes that nursing staff will play a critical role in the recovery from the pandemic, and notes the calls to urgently address the reported high levels of nursing vacancies in the Dumfries constituency, and across the country, including by the implementation of the Health and Care (Staffing) (Scotland) Act 2019.

17:17

**Jackie Baillie (Dumfries) (Lab):** I am grateful for the opportunity to bring forward this debate on international nurses day. The importance of our hard-working nursing staff, particularly in the past two years, cannot be overstated. They have been at the front line of the global pandemic, acting selflessly to provide essential healthcare in the most difficult of circumstances. It is fitting that this day is celebrated on the birthday of Florence Nightingale, a nurse who showed similar strength, compassion and commitment. To our nurses, from the retired to the newly qualified, from palliative care to paediatrics, we take this opportunity to say thank you.

However, it is not enough to stand here today to thank nurses or, indeed, to clap on our doorsteps each week. Nurses are experiencing unprecedented levels of burnout and there are record numbers leaving the profession. Vacancies are also skyrocketing. Nursing staff are reporting increasing concerns around a lack of flexible working and a lack of effective workforce planning and are expressing disappointment that the Health and Care (Staffing) (Scotland) Act 2019 has not yet been implemented.

I recently attended a Royal College of Nursing round table at which I met nurses from across Scotland to hear some of their concerns; the cabinet secretary was there too. Hilary Nelson, an NHS Forth Valley intensive care unit nurse,

explained how difficult it is for staff to come to work every day knowing already that their wards are understaffed. Nursing and midwifery vacancies in NHS Scotland reached a record high of 9.3 per cent, according to the latest workforce statistics, which were published on 1 March 2022. That is 6,674 vacant posts.

We know that the work that nurses do is not easy, but it is made yet more difficult by staffing shortages that force one nurse to do the work of many. This is unfair and unsafe for staff and patients alike. The Royal College of Nursing has repeatedly called for the Scottish Government to increase investment in the workforce and respond to the record high vacancy rates at the same time as implementing its own safe staffing legislation. The Health and Care (Staffing) (Scotland) Act was passed by the Parliament in 2019, but we are still no closer to seeing it being implemented. While the Scottish Government delays any meaningful action, nurses such as Hilary remain overburdened due to understaffing.

The Government says that it values nurses, and I believe that it does, but national health service staff—nurses—deserve action, not just words. With more and more people leaving the profession, not enough work is being done to replace the ageing workforce. The RCN has identified high levels of forced retirement of nurses in their 50s, causing already overstretched staff to take on extra workloads. Many of those nurses, such as Joanna Maloney, who was a senior nurse in mental health, would have stayed in their jobs if offered flexible working, but no one was interested in retaining her skills and experience—a loss to the profession.

Therefore, we need to tackle both recruitment and retention. I know that the Government talks about having more nurses than ever before, and that is probably true, but there is no mention of the fact that there are more patients being treated, there is more pressure on the system and capacity is truly stretched. We need to see a commitment to increasing the number of nursing student places in line with workforce modelling rather than simply affordability, as well as the urgent implementation of the 2019 act, to allow our NHS to function well.

Let me give you an example. In Scotland, the ratio of whole-time equivalent specialist cancer nurses to cancer incidence is lower than in England for most tumour types. It is crucial that the current Scottish Government consultation on workforce ensures that the cancer nurse workforce is fit for purpose for the constantly rising cancer incidence in Scotland that comes with an ageing population. Further, the overall number of stoma nurse specialists across Scotland has declined by a staggering 50 per cent over the past 10 years, despite the number of patients with a stoma

increasing by 1 to 2 per cent per annum. Patients with a stoma rely heavily on the in-depth knowledge of those specialist nurses, and health boards should be providing the resources that are needed to support that vulnerable group of patients and support nurse specialists.

It is hard to recruit new nurses when the level of pay on offer does not reflect the demands of the job. In fact, there has been a real-terms pay cut over several years. Shirley Robertson, a school nurse, spoke passionately to us about the effects of low pay when we met earlier this year, along with the cabinet secretary. We all know that the cost of living crisis is here now, but this year's NHS pay award is five weeks, six days and 17 hours overdue, and we are still counting. Nursing staff are waiting for the Scottish Government to act. Those delays come after years of underinvestment from the Scottish Government. To continue to withhold fair pay, particularly after the events of the pandemic, is frankly insulting.

In response to that, I am sure that the Scottish Government will argue that on average nurses in Scotland are slightly better paid than staff elsewhere in the United Kingdom. Let me tell you the reality of that. The reality is that the difference is meagre. It is about £8.60 a week for a newly qualified registered nurse. That is then offset by higher taxes paid by those working in Scotland, and in recent years pay for nurses has simply failed to rise in line with inflation.

It is, therefore, no surprise that, of the six in 10 nursing staff thinking of leaving their jobs, 54 per cent cite low pay as one of the main reasons for wanting to leave. Our nurses love their jobs, but they are being asked to work long hours for low pay, often doing the job of two people for the price of one. Nurses and NHS staff were there for all of us over the past two years. Now is the time to acknowledge that work.

In the meantime, we must continue to support and boost our nursing staff in any way that we can. I am delighted that today the RCN has launched the inaugural RCN Scotland nurse of the year awards, which will take place on St Andrew's night later this year. The awards will shine a spotlight on the best of nursing and will highlight and celebrate the dedication and outstanding professional care of nursing staff across Scotland. MSPs can nominate constituents, and I encourage all of my colleagues to do so.

Let me finish by once again thanking nurses for the work that they have done and continue to do. I certainly will—and I know my party will—continue to fight for better pay and working conditions alongside the RCN, Unison and all health service trade unions. I understand that kind words and tokens of gratitude do not pay the bills. On this international nurses day, I am reminded of a trade

union rallying cry: "What do we want? Fair pay! When do we want it? Now!"

17:25

**Emma Harper (South Scotland) (SNP):**

Thanks to Jackie Baillie for securing the debate and for her contribution this evening. I remind the chamber that I am a registered nurse and I was able to practise as a Covid vaccinator over the past two years. I thank the RCN for its two very helpful briefings ahead of the debate, one for the Scottish National Party and one for the Opposition.

The theme today for international nurses day 2022 from the International Council of Nurses is "Nurses: A Voice to Lead—Invest in nursing and respect rights to secure global health". My contribution will focus on my amendment, and I thank colleagues who have supported it. My amendment intends to celebrate the immense contribution of nurses, to value nursing as a highly skilled, highly varied profession and to note the progress that has been made to support the nursing workforce in Scotland, especially in the past two years, during the global Covid-19 pandemic. The pandemic has definitely had an impact on the mental health of all in our healthcare workforce, including nurses, and I welcome the Scottish Government's action to address that.

Nurses work in a variety of areas, including adults, children, learning disability, mental health, maternity, perioperative—that was my job when I worked as a nurse—resuscitation, diabetes and cardiac as well as expert cancer care, as the Macmillan briefing that we received noted. Nurses make up the largest single profession in our NHS and are at the heart of the health service. The diversity of jobs in nursing is demonstrated through their work in our hospitals, general practitioner practices, homes and care homes, as well in schools and communities across the country.

Nurses in Scotland have some of the most advanced clinical skills of nurses anywhere in the world and we are leading the way. I cannae go through the whole of the ICN report, but, according to the ICN, there are huge benefits in investing in nurse education. The ICN states that that is needed to meet the

"changing health needs and rising expectations of individuals and communities".

For example, in Scotland nurse-led education for patients on the management of conditions such as diabetes, medications and the prevention of ill health plays a hugely important role in promoting the positive health and well-being of the nation.

However, nursing skills in Scotland are not replicated across the globe. We should, therefore, be celebrating the competence of our nursing

workforce in Scotland and use that competence as evidence to improve healthcare systems internationally. As co-convener of the lung health cross-party group, I joined the recently created International Coalition of Respiratory Nurses, which was initiated by Andreja Šajnic, who is a specialist respiratory nurse from Croatia. The ICRN has political support from Željana Zovko MEP, who is the co-convener of the lung health cross-party group in the European Parliament. We are proposing to work together to look at lung health across Europe and across the globe. ICRN is a global coalition aiming to promote best practice for respiratory education for nurses.

As we celebrate IND, I recognise the workforce challenges. I welcome the steps the Scottish Government is taking to address workforce recruitment and retention challenges. Scotland has a £10,000 per year bursary for nursing students. We are ensuring that nurses receive the best and fairest pay deal, with nurses in Scotland being on average the highest paid in the UK. The Scottish Government's nursing vision to 2030 is welcome and shares many of the points from the World Health Organization's global strategic directions for nursing and midwifery. The WHO strategy aims to ensure that nursing is better understood by the public, to increase nursing's appeal as a career option, to retain a focus on supporting people experiencing periods of acute ill health, to promote prevention and to tackle inequalities. I ask the cabinet secretary for a commitment that those will be built on.

This is a day to celebrate. It is a day to be cheerleaders for our nurses. It is a day to thank nurses across the globe for all that they do on this day, international nurses day.

17:30

**Jeremy Balfour (Lothian) (Con):** It would be an understatement to say that the topic of the NHS has been somewhat of a current theme in the chamber of late. The pandemic has thrown into sharp focus the way that people in Scotland and, indeed, in all of the United Kingdom rely on our health service for our ways of life. On today's international nurses day, we pay tribute to a vital section of the health service without which the entire operation would come to a grinding halt. The army of nurses in the NHS work tirelessly, day and night, to ensure that the patients in their charge are given the care that they need.

On a personal note, I have many experiences of years in hospitals, for both myself and loved ones. In every case, the nurses have not only provided top-class care but have been a calming bedside presence, but in reality they are under vast amounts of pressure. On Monday night, my father was taken into hospital in the early hours of the

morning. The nurses and doctors looked after him in a superb way, but there were too few of them and they were under too much pressure. We need to address the shortages of nurses quickly and efficiently. I want to add my personal thanks, as well as those of the chamber, to all our nurses and to thank them for their work.

Looking forward, the main issue for me is, as I said, the number of nurses that we have. There can be no doubt, when we look at the staffing numbers in nursing, that Scotland is going through a difficult period. As Jackie Baillie said, the Scottish Government will say that there are more nurses, but there are also more patients and people requiring healthcare. However, I did find some encouraging news when I visited Edinburgh Napier University just a few weeks ago. I understand that it is hoping to take in 2,000 first-year students to study nursing in September. The facilities and training that they will get at the university are excellent. If anyone wants a good trip, I recommend going to the university to see how the nurses are taught and learn on amazing equipment.

We can be proud of those who will qualify in the next few years, but the question is whether they will stay in Scotland or go and work in other parts of the United Kingdom and other parts of the world. We need not only to train nurses but to ensure that they stay in NHS Scotland.

Finally, I want to make special mention of cancer nurses. We all know that cancer numbers in Scotland are going up, with Macmillan estimating that 110 people will be diagnosed per day by 2027. Macmillan's recommendations say that the Government's upcoming cancer strategy must ensure that a specialist cancer nurse is made available to every cancer patient who needs one, making sure that people are receiving the care that is needed. That is a big ask but one that I hope the Government will continue to support; I hope that the cabinet secretary will confirm that tonight. We need our universities such as Napier bringing forward, recruiting and training, but we also need the Government to make the future brighter for those who have cancer. We need to make sure that it continues to be an amazing field of nursing across the whole of our country.

In conclusion, I say "Thank you" to our nurses. Thank you for what you do, often unseen, day in, day out. We appreciate it, we respect you and we thank you for what you do.

17:34

**Marie McNair (Clydebank and Milngavie) (SNP):** I thank Jackie Baillie and Emma Harper for their opening contributions. The nursing experience that Emma Harper brings to the debate

is extremely welcome, and it was underlined in her contribution and in the amendment in her name. That has helped to ensure that the full objective that has been set out for international nurses day is achieved and supported by the Parliament.

International nurses day is overseen by the International Council of Nurses, and 12 May is the chosen date because it is Florence Nightingale's birthday. The lady of the lamp is possibly one of the most famous nurses in the world and, although her best known achievements are associated with her work with soldiers in the aftermath of the Crimean war, she was also a pioneering medical educator. As Emma Harper pointed out, we also take inspiration from Louisa Jordan, a Scottish nurse who showed compassion and bravery while caring for soldiers during the first world war, and who lost her life while doing so at only 36 years of age.

International nurses day is a chance to celebrate the best of nursing and to thank staff who work in health and social care for all that they do. This year's theme is "Nurses: A Voice to Lead—Invest in nursing and respect rights to secure global health". That could not be more pertinent, in the face of the on-going global pandemic of Covid-19. Nurses have been at the front line across the world, fighting against a relentless, invisible foe that has tragically killed more than 6 million people. Nurses are the backbone of the NHS and social care. We know how dedicated, caring and compassionate the profession was when we especially needed them. In some cases, they were the only human contact available to people who tragically lost their lives to the pandemic.

The pandemic must have been, among many other things, an emotionally draining time for nurses. I can relate to that enormously difficult situation from my time as part of the nursing team at the St Margaret of Scotland Hospice in Clydebank. To nurse someone at the end of their life is a privilege, but it is also challenging and can impact on a nurse's health and wellbeing. On international nurses day, as well as celebrating the work of nurses across Scotland on behalf of those whom I represent, I pay tribute to every single one of the nursing team at the St Margaret of Scotland Hospice, in the heart of my constituency. I know how much love, support and care those nurses have given to my constituents and families. I have experienced it myself with the death of my mother at the hospice. It is a time of greatest need. I am proud to have worked there and proud to have such a centre of excellence and compassion in my constituency.

I also thank the Royal College of Nursing Scotland for its briefings. I agree with it that the debate is a chance to celebrate the best of nursing

and show our appreciation. I also agree that saying thanks is not enough. We must continue to work hard to provide the best possible terms and conditions for our nurses. We must also support efforts to ensure that more progress is made on nurse vacancies. I am pleased that the Royal College of Nursing is using international nurses day to launch its nurse of the year awards, which is an excellent way to recognise and celebrate the dedication and outstanding professional care of nurses across Scotland.

The debate is a very welcome one that allows the Parliament to further acknowledge the importance of our nurses and to highlight their sacrifices when working through such a turbulent time in modern medicine. We must also rejoice in the dedication of our nurses, who have been so determined to play their part in administering more than 12 million Covid-19 vaccines across Scotland. I thank all the nurses in my constituency and across the world for everything that they have done and continue to do—we owe them so much.

17:38

**Carol Mochan (South Scotland) (Lab):** I thank my colleague Jackie Baillie for bringing this important debate to the chamber and I, too, welcome international nurses day, which, as has been mentioned, is marked on the anniversary of the birthday of Florence Nightingale. The debate offers us the opportunity to commend the work of our nurses, highlight the impact that they have on our society and pay tribute to them for the work that they carried out throughout the pandemic.

Our nurses are the best of our country—I will touch more on that later in my speech. However, in Scotland we have a situation in which nurses feel undervalued, overworked and underpaid. They feel as though the pressures of the workplace have become too much during the pandemic, with vacancies not being filled, agency staff being used more often than normal and staff shortages meaning that others have to double—or sometimes treble—their workload. It would therefore simply be wrong of us to debate the motion without highlighting the clear and fundamental challenges that face nurses and nursing more widely.

As on many issues, the Scottish Government certainly talks a good game, but, when it comes to action, it falls short. I have spoken to many constituents in my South Scotland region who tell me, time and again, that the challenges facing our hospitals and care settings are like none that they have ever seen before.

**Emma Harper:** The issues that Carol Mochan is highlighting are really important, and it is important that we debate them. However, it is kind of difficult

to do that when we are allotted four minutes in which to speak. Is it worth reflecting on that?

**Carol Mochan:** Of course, it is difficult to do that in four minutes, but it is important that we address the issue and at least acknowledge to the nurses that we see it as important. I hope that the cabinet secretary will address some of that in his remarks.

The pandemic has exacerbated many problems, but it did not create them. They were created due to consistent mismanagement of our health service by consecutive health secretaries in the Scottish Government. However, all is not lost. With the right investment in nursing, including increasing pay and conducting public awareness schemes to encourage people to join the profession as part of the implementation of the Health and Care (Staffing) (Scotland) Act 2019, as we have heard, we could relieve some of the stress and pressure on the current workforce and show people in it the value that they truly deserve. I say to the cabinet secretary that Scottish Labour stands ready to support positive change from the Scottish Government if it shows the political will to introduce that.

Our nurses deserve to be celebrated. They work day in, day out to provide the highest standard of care to patients in different settings up and down the country, and it is right that they are recognised with accolades and awards. Indeed, each and every one of them deserves an accolade and award for their work in the past two years, but they need more—they need action from the Government. I look to the nurses in Ayrshire and across the South Scotland region and consider the tremendous efforts that they have put in to provide for those most in need in very difficult times. I think of the mental health nurses across the country, who are also under significant workplace pressures and who are working to reduce lengthy waiting lists but still providing high-quality services.

Before I conclude, as suggested in the motion, I want to share my personal story. It is of a dear lifelong friend who has worked tirelessly in my local community since training in a small local hospital—I am sure that she would not wish me to remind her how long ago it was. That local hospital, Ballochmyle, is now closed, but the bulk of her career has involved working in the community. My friend, Hilary Sharp, has demonstrated the best of nursing and the best of the profession. Despite pressures at work, she is always kind, caring and committed to her patients. It is a great tribute to her that her daughter, Jennifer Sharp, has now started a nursing degree at the University of Aberdeen. I cannot tell members how proud the family are of that, and rightly so. The dedication of our country to the NHS is often shown in generations of family

members who are committed to a lifelong career in caring for others.

Without doubt, nurses in Scotland face pressure, but we must celebrate them tonight.

17:43

**Collette Stevenson (East Kilbride) (SNP):** I congratulate Jackie Baillie on securing the debate. I am glad to speak in it, because it is great to have the chance to reflect on and celebrate the contribution that nursing staff make to people's lives. I thank those who work in health and social care in my constituency of East Kilbride and across the country for all that they do, and particularly for what they have done during the pandemic. Nurses have been working together to deliver care under the most extreme and challenging circumstances, setting up new ways of working in response to changing demands and maintaining staffing and equipment levels to deliver on-going and essential services.

It is always interesting to hear about members' backgrounds that we would not hear about other than in members' business debates. I commend Emma Harper for being a community champion and delivering the vaccination roll-out. Every single one of the people involved in that were true heroes.

The date of 12 May was chosen as the day on which to celebrate international nurses day because it is the birthday of Florence Nightingale. Florence is undoubtedly one of the most famous nurses and has earned her place in the history books. She modernised the approach to care during the Victorian age and was instrumental in improving care with mathematical science and statistical analysis. She noted, too, the importance of hygiene, diet and ventilation, all of which are very much relevant today.

As my colleague Emma Harper's amendment to the motion rightly recognises, Scotland takes inspiration from Louisa Jordan, a Scottish nurse who had a prominent role during the first world war. Interestingly, in the previous members' business debate on the subject in 2017, there was no mention at all of Louisa Jordan.

Each year, the International Council of Nurses celebrates nurses day by focusing on a specific theme. As we have heard, this year the theme is "Nurses: A Voice to Lead—Invest in nursing and respect rights to secure global health". The focus is on the need to protect, support and invest in the nursing profession to strengthen health systems around the world. The pandemic has laid bare and drawn our attention to the vulnerabilities of our health systems. Being recognised, appreciated and valued is important for nurses around the world.

NHS Lanarkshire has recently put together short videos highlighting the hostility that staff have unfortunately faced in recent months. The videos draw attention to wider reports that staff and partners continue to experience violence and aggression from a minority, with the short clips ending with the phrase, "Please be kind". Hospital staff are still under a great deal of pressure and should not face any abuse or threats. That should go without saying.

Without the nursing profession, the NHS would be unable to offer the high-quality healthcare that it provides day in, day out. We owe nurses our thanks for all that they do—their dedication and professionalism are inspiring.

**The Deputy Presiding Officer:** Before I call the next speaker, I advise members that, due to the number of members who wish to speak, I am minded to accept a motion without notice under rule 8.14.3 of standing orders to extend the debate by up to 30 minutes. I invite Jackie Baillie to move such a motion.

*Motion moved,*

That, under rule 8.14.3 of Standing Orders, the debate be extended by up to 30 minutes.—[Jackie Baillie]

*Motion agreed to.*

17:47

**Gillian Mackay (Central Scotland) (Green):** I, too, thank Jackie Baillie for securing this important debate.

It has become almost clichéd to acknowledge the impact that the pandemic has had on our public services and the country more widely, but nowhere are the impacts of Covid-19 more evident than in the toll that it has taken on our health and care system over the past few years. When the pandemic was at its most precarious and most of us were asked to stay at home to protect ourselves, our loved ones and the NHS, and no vaccines or recognised therapeutics had yet been developed, our nurses and healthcare workers were on the front line, risking their health and wellbeing to ensure that the many thousands of those who were hospitalised with Covid and, indeed, with other illnesses, were treated in the most challenging of circumstances.

I thank nurses at Forth Valley royal hospital for the support that my loved ones received over the pandemic. Without the nurses in the stroke ward, mum would not have been able to have those few phone calls with us, and without the phenomenal district nurses in Grangemouth, grandpa probably would have ended up in hospital far earlier than he did. Nursing staff allowed us to stay with mum for as long as we needed, making sure that we had what we needed. Our story is not unique; people's

experiences of those who went above and beyond—from school nurses to intensive care unit nurses—are repeated across the country.

Although it is only fair to recognise nurses for all the great work that they do, we must also recognise the circumstances in which nurses find themselves now. NHS workforce vacancy statistics that were published in March show the continued trend of rising vacancies, emphasising the need to refocus on retaining and recruiting staff.

NHS Lanarkshire alone is experiencing a high vacancy rate of 10 per cent of available posts. The Royal College of Nursing Scotland has also relayed that, according to its workforce survey, 61 per cent of nursing staff are thinking about leaving their current posts. Those numerical factors alone underline the need for support to ensure that those within the profession are supported to continue in their roles.

The NHS in Scotland continues to be under significant strain as we begin to emerge from the worst of the pandemic, and it is necessary to ensure that existing staff are retained and that recruitment is significantly stepped up to fill vacancies.

Workforce planning remains central to providing long-term, effective healthcare, and the Scottish Government must consider its approach in the light of those recent publications. After all the NHS has done for us over the past two years of the pandemic, it is vital that we build back a system in which nurses feel valued and in which their safety and wellbeing are a priority.

Although I am proud of some of the measures that my party has helped to deliver over the past few years, such as creating a legal duty on the Scottish Government to ensure that there are appropriate NHS staffing levels, I join the RCN's calls on the Government to implement the Health and Care (Staffing) (Scotland) Act 2019. I hope that the cabinet secretary might be able to lay out a timetable for that.

The Scottish Greens have also helped to ensure that all nurses have the legal right to funded continuous professional development. We still have great strides to make to ensure that nursing is a long-term occupation for those who enter the profession. Those are tangible steps towards progress.

It also merits mention that nursing is not a singular block of professionals—they are people who are split across various and specialised areas. Mental health needs across Scotland and the historical lack of recognition of them have become much more focused in the public eye as a result of the pandemic. Successive lockdowns, although necessary for public health, exacerbated



existing mental health conditions, and continuity for those receiving treatment is essential. A recovery response to the growth and acknowledgement of mental health conditions caused by Covid-19 needs to take a holistic approach that addresses the wider social, systemic and structural inequalities of health and wider society, rather than placing the onus entirely on the individual.

In closing, I point out that international nurses day is about celebrating all that nurses do and thanking them for everything that they do. I thank nurses for all that they have done for my family—and, I am sure, for the families of countless others in this chamber—and for going above and beyond to deliver for constituents in my Central Scotland region. I thank them for all the enduring support that they provide.

17:52

**Alex Cole-Hamilton (Edinburgh Western) (LD):** I thank my friend Jackie Baillie for securing the debate, and I thank the Royal College of Nursing for its tireless work in representing its profession.

As Jackie Baillie said at the top of the debate, we celebrate international nurses day on the anniversary of Florence Nightingale's birth. She was a truly remarkable pioneer. However, her contemporary and fellow nurse Mary Seacole is not often talked about enough. She was born to a Jamaican mother and a Scottish father. She often talked affectionately about her Scottish heritage. Like Nightingale, she nursed her way throughout the Crimean war. However, unlike the lady of the lamp, she was shunned by the British Army. She instead established her own hospital, where she provided help to countless British soldiers. She was the only person to do so right on the front line. Determined to care for those who needed it, she said,

"I ask no greater or higher privilege than to minister to it."

That sentiment encapsulates the heart and the character of nurses everywhere.

Seacole spoke openly about the racial discrimination that she faced, and, indeed, it is widely believed that such prejudice means that, even today, she does not get the recognition that she deserves. In a parallel sense, I want to note that it was disconcerting to read in the RCN workforce report the variation in the treatment and experiences of nurses depending on their ethnicity.

As has been made blisteringly clear time and time again, and as has been stated eloquently many times in this debate, we owe an enormous debt to our nurses, so why is it that that debt

remains so poorly serviced? A record 9 per cent of registered nursing posts are still unfilled. That is having a devastating impact on workload and wellbeing. An astonishing 70 per cent of nurses feel undervalued and almost half feel unable to give patients the right level of care. One nurse practitioner admitted that they always enjoyed the job and found it rewarding but said that it now feels like

"we are sinking in quicksand with no way out."

When Jackie Baillie and I attended a round-table event with nurses that was hosted by the RCN, we heard many such stories. It is appalling that that is the experience of a single nurse in this country, yet, as the report suggests, it is a commonplace one.

Despite that, nurses continue to go above and beyond in the face of the inordinate pressure that they come under. I was particularly struck by that given what nurses in my constituency experienced in January. Due to mismanagement—we have talked about this several times in this place—numerous nurses were unable to park at the Royal infirmary of Edinburgh. Nurses told me that they were sacrificing the little sleep that they get to wake up hours earlier than they usually do just to make it on time for their shift. That is one of countless stories that demonstrates the difficulties that nurses face being compounded by decisions made by management.

This Government is presiding over what will soon be, if we do not act fast, the disintegration of one of the most important workforces in our health service. There is so much more that the Government can do and should be doing. For example, it needs to set out a clear and urgent timetable for the safe staffing aspect of the Health and Care (Staffing) (Scotland) Act 2019 to be activated. The legislation has existed for three years, but it has still not been utilised properly. All the while, staff and patients are left unsafe on the shifts that they are asked to deliver.

Although the Government has pledged £12 million for staff wellbeing, we are yet to see a viable plan as to how such investment is being implemented into tangible and accessible support for staff. Instead, our proposal for a burnout prevention strategy has been routinely dismissed by the Cabinet. Meanwhile, more nurses are being pushed away from the job that they love and more patients risk losing out.

I will end on a quote from the ineffable Maya Angelou, who said:

"If you find it in your heart to care for somebody else, you will have succeeded."

If that is the metric of success, nurses succeed tenfold every day and it is about time that we

politicians started recognising that success with more than just words.

17:56

**Stephanie Callaghan (Uddingston and Bellshill) (SNP):** I, too, thank Jackie Baillie for lodging her motion. This is a day for celebration. It is a day to celebrate the dedication, kindness and passion of nurses in Scotland and beyond. Nurses are people who keep the health service going, no matter what happens. They deserve our recognition and thanks, and they need our commitment to their future because that safeguards our futures, too.

My colleagues have spoken about the important challenges and pressures that nursing staff in the NHS face, and I will not repeat a lot of those points. Suffice it to say that the pandemic has been extremely hard on nurses and other health professionals in carrying out their role. Those roles will be vital as we recover from the pandemic, especially with Brexit making it harder to attract overseas passion. This is a profession that is constantly evolving and needs to attract more talent.

However, today should not be about political disagreement, because our nurses deserve to be celebrated. Instead, I want to talk about what makes a great nurse and why it is such a brilliant profession to join.

Earlier today I spoke to Roz Kerr, a Hamilton lass who is filled with kindness and compassion. Roz and her sisters, Arlene and Jean, have dedicated their careers to the NHS and have recently celebrated a combined 100 years of service. That is an inspiration. [*Applause.*] For Roz, being a nurse means being an advocate for her patients, constantly treating people as she would wish to be treated and would wish her family members to be treated. As a member of a surgical team, Roz helps to create a sense of comfort and normality when patients have butterflies before theatre.

This morning, I asked Roz what makes a great nurse. One of the first things that she said is that nurses need to be really hard workers, that they need to be strong mentally and physically, and that they need to be unselfish and willing to put their patient first. I do not think anyone will be surprised that Roz said that nurses need to have great communication skills and that they need empathy. However, she also said that it is important that a nurse has great attention to detail, that they are a people person and that they are someone who really cares. We should note that those qualities make not only a great nurse but a great person.

Nurses deliver exceptional care to patients, bringing comfort to many. They are rewarded with a sense of achievement and joy—the feeling that they have made a real difference to someone’s life. Roz says that that feeling is absolutely priceless. She described the joy when a patient who has been suffering from chronic pain, often for quite a long time, has a hip or knee replaced, and they say, “Wow—this I can live with.”

I could tell from speaking with Roz just how much she loves her profession. She really wants to encourage others to follow in her and her sisters’ footsteps. She says that people should not be put off by Brexit. If someone is thinking about being a nurse, they should start on that incredible journey.

I also have a personal story of my own. In January 2020, my partner, the father of our three young children, had a massive heart attack. It runs in his family. Had he not been really fit and healthy, who knows what would have happened? Probably the worst, I imagine.

Any heart attack can be fatal, but one kind has earned notoriety and a scary sounding nickname because it is especially dangerous: the widow maker. Such heart attacks occur when the left anterior descending artery—LAD—which supplies blood to the larger front part of the heart, is completely blocked. My husband was rushed to University hospital Hairmyres and had a stent fitted. The care that he received from specialist nurses and other care professionals was nothing short of outstanding.

In another country, we would have been bankrupted by medical bills, but not in Scotland. It has been a really hard road at times, but, after two long years, he reckons that his health is nine out of 10 compared with how he was before. I think that that is amazing. My children still have their father because of those nurses and doctors.

To me, our NHS is beyond precious and our nurses are one of the jewels in that crown. I end with a thank you to Roz, Jean and Arlene, and to every single nurse in Scotland and beyond.

18:01

**The Cabinet Secretary for Health and Social Care (Humza Yousaf):** I am tempted to say, “Follow that” after Stephanie Callaghan’s excellent speech, which was very powerful. I do not think that I can follow it, but I will give it my best shot.

I congratulate Jackie Baillie on lodging an incredibly important motion and bringing it to the chamber for debate. I thank members from right across the chamber for their very thoughtful and, sometimes, very personal speeches. Members have not just—rightly—extolled the virtues of our

fantastic nurses up and down the country but challenged the Government on some of the significant pressures that our nursing cohort faces. I will do my best to address some of the points that have been made.

As many members have said, nurses make up the largest single profession in our NHS. They are crucial to the care of each and every one of us. We will all, no doubt, need the attention of a nurse at some point in our lives—for all of us, I hope that that will not be too many times. I reflect that, at any time that I have interacted with a nurse—in my younger days or, more recently, my not-so-young days—they have provided the greatest care and compassion, and I am most grateful for that. Many members have spoken about their personal stories, which I might touch on in just a second.

I agree with Jackie Baillie that warm words are not enough. Warm words are, of course, important—that is no doubt the reason, or part of the reason, why she brought the debate to the chamber. Warm words are important, but they are not the most important factor. She is absolutely right that it is important that we demonstrate that we are focused not merely on words but on actions.

I am proud of our record on how we treat our staff. Members would expect me, as the Cabinet Secretary for Health and Social Care, to say that. I certainly do not argue that there are no improvements to be made, but we have had an increase in staffing since 2006 in nursing, as well as more widely in the NHS. In fact, the number of qualified nursing and midwifery staff has gone up by almost 15 per cent since 2006.

Our nurses and midwives are also the best-paid staff. Jackie Baillie seemed to suggest that they were paid a meagre—I think that was her word—£8 more than those in England. However, for band 5, which is an important and significant banding in our agenda for change, the difference in the maximum pay between England and Scotland is more than £1,000—there is a £1,381 difference. That is not “meagre”; it is quite substantial, particularly given the cost of living crisis.

**Jackie Baillie:** The cabinet secretary will accept that taxation in Scotland is higher than it is in the rest of the UK, so our band 5 nurses pay more than they would in the rest of the UK.

However, let us look to the future, because we are in a cost of living crisis now, and we know that inflation is heading into double digits and we are heading for a very deep recession. Do not make nurses pay the price, cabinet secretary. Will the Scottish Government provide decent pay to our nurses?

**Humza Yousaf:** Yes, of course we will. We are in the middle of a pay negotiation. I note that the

pay deal that we provided in the previous financial year was the best and highest single-year settlement in the history of devolution. We have a good record when it comes to pay negotiations. I completely understand that, on behalf of their members, the trade unions want us to go faster in the pay negotiation. I accept that. I also accept the point that we are well past 1 April without a concluded pay negotiation, so I give the absolute promise and commitment, without prejudicing the negotiation, that we will backdate pay to at least 1 April.

There are other benefits of being a nurse in Scotland. I thank our student nurses, who have done an incredible job throughout the pandemic. They do not pay tuition fees, which they would do in other parts of the UK.

I want to touch on challenges, but, before I do that, I thank members for their exceptionally powerful testimonies. We heard from Mairi McNair about her mother. We heard from Jeremy Balfour about the care and attention that he has received and that his father is receiving. We heard from Gillian Mackay about the attention that her mother and grandpa have received. We heard about Carol Mochan's friend—forgive me, I should have taken a note of their name—who has worked tirelessly for our NHS. Most recently, we heard from Stephanie Callaghan about Roz, Jean and Arlene.

I pay tribute to every single nurse in our country for the incredible work that they have done. I am the first to recognise that all our nurses, whether they work in community or acute sites, are facing probably the most difficult period of their professional and personal lives. I know that nurses take their work home, perhaps not quite literally, but those pressures do not just go away the moment that they walk out of a hospital or away from the community site in which they work. Nurses who have worked in the NHS for 30 or 40 years have told me that the past two years have been the most difficult in their entire career.

I mention that point because, although we have a good record on recruitment—I have given some statistics on that—and we will continue to recruit, Jackie Baillie and other members who made the point are absolutely right that retention is key.

Gillian Mackay, Alex Cole-Hamilton and Jackie Baillie were at the round table that I attended; Craig Hoy, who is not in the chamber, was also there. We heard very clearly that there needs to be better flexibility in the NHS, particularly for staff who might want to reduce their hours but are not given the choice to do so and then decide to work through an agency. When that happens, we have to pay them higher rates to come back in to do shifts. On the back of that round table, I give a commitment that we will look at greater flexibility.

Taking care of the wellbeing of our nurses is essential. We have a record £12 million investment in wellbeing, but I have heard recently from nurses who, rightly and fairly, have said, “That is great but, if we don’t have time to access the wellbeing services, what good is it for us?”.

To members who are rightly raising concerns about the challenges that nurses are facing, I note that the reason why I mentioned the past two years is that, notwithstanding the fact that there were challenges before, the pandemic has severely exacerbated those challenges. That is why nurses tell us that the past two years have been the most difficult—not the past five or 10 years, although I accept that there were challenges before. In the past two years, nurses have been put under pressure that goes beyond any challenge that any of us could have envisaged before.

The number 1 thing that we can do to alleviate the pressure in the immediate term is to keep Covid under control. If we do that, it will begin to alleviate some of the pressure, although it will not happen overnight. As I have said, it will take not weeks or months but years to recover our NHS, but there are actions that we can take immediately, and we are working right now on pay, terms and conditions, recruitment and retention.

I thank Alex Cole-Hamilton for mentioning Mary Seacole, who I was going to mention—it is very important that we do so. Understandably, we give a lot of focus to Florence Nightingale and Louisa Jordan. As many members will know, Mary Seacole was a nurse and a woman of colour who did an outstanding job, particularly in the Crimean war. However, I will not say any more about her, because Alex Cole-Hamilton spoke very well about the incredible contribution that she made to nursing.

Quite rightly, I have been asked about the implementation of the Health and Care (Staffing) (Scotland) Act 2019, which was referenced in the round table that many members attended. Honestly and truthfully, we are not in the position right now to implement the act, because of the challenges that that would have for our recovery and remobilisation. However, on the back of the round table, I have promised to produce an implementation plan, which I will publish in relatively short order.

Let me finish where I started by thanking Jackie Baillie for lodging an incredible motion. I give even more thanks to our nurses up and down the country for their phenomenal effort. Let me give them a promise. I hear their message. They require deeds, not words, and I promise them, as we have promised in previous years, that we will honour the debt that we owe them, and we will

ensure that we value them and recognise the incredible contribution that they have made.

*Meeting closed at 18:10.*

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