



OFFICIAL REPORT  
AITHISG OIFIGEIL

# Meeting of the Parliament

Tuesday 31 January 2023

Session 6



The Scottish Parliament  
Pàrlamaid na h-Alba

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# Scottish Parliament

*Tuesday 31 January 2023*

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

## Time for Reflection

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

The first item of business is time for reflection, for which our leader is the Rev Father Matthew Carlin, parish priest of St Francis of Assisi parish, Port Glasgow.

**The Rev Father Matthew Carlin (St Francis of Assisi Church, Port Glasgow):** Presiding Officer and members, thank you for allowing me to address you today. The third time that I met Pope Benedict XVI was particularly memorable because it was in Bellahouston park, in Glasgow. I am sure that, following his death on 31 December 2022, many around the country thought back to the state visit that he made to the United Kingdom in September 2010. I was in seminary at the time and had the privilege of serving at the altar when, in the course of his visit, the Pope came to Glasgow and celebrated mass in the same location as his predecessor, John Paul II, had done in 1982. My own part in Pope Benedict's historic visit was not what you would call a starring role—I was candle carrier number 6.

In his homily at mass in Bellahouston park, then in speeches and talks that were delivered in London and Birmingham, Pope Benedict challenged us all to focus on what really matters, to raise our gaze and to strive for lives of authentic goodness and true joy. This we can do by rejecting a vision of life that measures happiness in terms of power, prestige and possessions. Those things are fleeting and can never satisfy the deepest longings of the human heart for peace and happiness. Instead, as Pope Benedict said to the young people who were gathered in Glasgow:

“There is only one thing which lasts: the love of Jesus Christ personally for each one of you. Search for him, know him and love him, and he will set you free from slavery to the glittering but superficial existence frequently proposed by today's society. Put aside what is worthless and learn of your own dignity as children of God.”

Recognising the unique dignity and infinite worth of each and every person is a guiding principle for seeking the common good, which should be at the heart of the work of legislating and governing. That was recalled by Benedict XVI in his address at Westminster Hall as he invited lawmakers to recognise and respect the ethical underpinnings of democracy. It is, he argued, only when public authorities and religious bodies—including the Catholic Church—respect each other's

competence and limitations that they can co-operate for the common good. He said:

“In this way, such basic rights as religious freedom, freedom of conscience and freedom of association are guaranteed.”

It is my prayer today that such fruitful co-operation may continue to thrive in Scotland. Thank you.

## Business Motion

14:03

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

The next item of business is consideration of business motion S6M-07734, in the name of George Adam, on behalf of the Parliamentary Bureau, setting out changes to this week's business.

*Motion moved,*

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

for—

(a) Tuesday 31 January 2023—

after

*followed by* Topical Questions (if selected)

insert

*followed by* Ministerial Statement: Update on the Management of Transgender Individuals within Prison Custody

(b) Thursday 2 February 2023—

after

5.00 pm Decision Time

insert

*followed by* Members' Business—[George Adam]

14:04

**Russell Findlay (West Scotland) (Con):**

I begin by expressing my disappointment at Nicola Sturgeon's refusal to be here today. She presided over gender self-identification in Scotland's prisons. She invalidated women's concerns about single-sex spaces being compromised. She created the obscene situation in which a double rapist was sent inside a women's prison. She should be here to answer questions about a mess that is entirely of her own making.

Nicola Sturgeon has now called some opponents transphobes, homophobes, misogynists and even racists. We all know what her game is. That smear is a despicable attempt to divert attention from a double rapist in a women's prison, so let us talk about that.

How could that happen in our country? There is evidence that it was the inevitable result of Scottish National Party policy. There is also evidence that prisons were treated as a form of testing ground for gender self-ID across society, in hospitals, toilets and changing rooms. The most vulnerable and voiceless women are told to believe that a male-bodied inmate in their prison is a woman. This week, one female prisoner said that she was threatened with disciplinary action if

she did not go along with that charade. That is shocking and shameful. A prison officer told me about being ordered to address a male-bodied paedophile as "she". He describes that as "ridiculous".

The SNP says that the scandal has no bearing on its flawed Gender Recognition Reform (Scotland) Bill. However, if that bill is enacted, it will make it even easier for rapists and other male sex offenders to be recognised as women and to be treated accordingly. That would be enshrined in law, no matter the harm that it would cause women.

During the passage of the bill, I tried to prevent sex offenders from being able to exploit self-ID. One of my amendments, which I lodged jointly with Michelle Thomson, would have prevented anyone who was charged with rape from being able to seek a gender recognition certificate. Right here, six weeks ago today, I said:

"The primary purpose is to prevent an alleged rapist ... from declaring that he is female."

I said that such a scenario might sound

"absurd, ludicrous and unimaginable".—[*Official Report*, 20 December 2022; c 80.]

However, here we are. The unimaginable has actually happened.

It has taken the scandal of a double rapist in Cornton Vale to ignite public awareness, public incredulity and public anger. Campaigners who have spent many long years warning and pleading with Nicola Sturgeon have been vindicated. It is now clear to everybody that the real reason why the rapist was removed was not the threat to female prisoners but the threat to the SNP Government.

Keith Brown defended the indefensible before he was thrown under the bus by Nicola Sturgeon. How can we have any confidence in anything that he says here today when it could be trashed in 24 hours? No wonder SNP members are so deathly silent. They know that that is true.

I move amendment S6M-07734.1, to leave out "Ministerial Statement" and insert:

"First Minister's Statement".

**The Presiding Officer:** I call George Adam to respond on behalf of the Parliamentary Bureau.

14:08

**The Minister for Parliamentary Business**

**(George Adam):** As I mentioned earlier today at the meeting of the Parliamentary Bureau—which Alexander Burnett, the Tory business manager, attended—the Cabinet Secretary for Justice and Veterans, Keith Brown, will make the statement

today, as is the normal way of parliamentary business. Mr Brown will answer questions on the issue in the normal manner.

**The Presiding Officer:** The first question is, that amendment S6M-07734.1, in the name of Russell Findlay, which seeks to amend business motion S6M-07734, in the name of George Adam, on behalf of the Parliamentary Bureau, setting out changes to this week's business, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

There will be a short pause to allow members to access the digital voting system.

14:08

*Meeting suspended.*

14:13

*On resuming—*

**The Presiding Officer:** We move to the vote on amendment S6M-07734.1, in the name of Russell Findlay. Members should cast their votes now.

#### **For**

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)  
 Cameron, Donald (Highlands and Islands) (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)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 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)  
 Lumsden, Douglas (North East Scotland) (Con)  
 Marra, Michael (North East Scotland) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mochan, Carol (South Scotland) (Lab)

Mundell, Oliver (Dumfriesshire) (Con)  
 O'Kane, Paul (West Scotland) (Lab)  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Douglas (Highlands and Islands) (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)  
 White, Tess (North East Scotland) (Con)  
 Whitfield, Martin (South Scotland) (Lab)  
 Whittle, Brian (South Scotland) (Con)

#### **Against**

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, 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)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 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)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Gillian (Central Scotland) (Green)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 Regan, Ash (Edinburgh Eastern) (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)

**The Presiding Officer:** The result of the division is: For 51, Against 67, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The next question is, that motion S6M-07734, in the name of George Adam, on behalf of the Parliamentary Bureau, setting out changes to this week's business, be agreed to.

*Motion agreed to.*

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

(a) Tuesday 31 January 2023—

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5.00 pm Decision Time

insert

*followed by* Members' Business

## Topical Question Time

14:16

**The Presiding Officer:** The next item of business is topical question time. As ever, I would be grateful for concise questions and responses.

### National Care Service (Co-design Process)

1. **Paul O'Kane (West Scotland) (Lab):** To ask the Scottish Government what its response is to the reported announcement that Unite the union has withdrawn from the co-design process of the national care service. (S6T-01149)

**The Minister for Mental Wellbeing and Social Care (Kevin Stewart):** I have welcomed the engagement with Unite and other unions in recent months, and I am more than happy to directly engage with Unite on the substantive points that it raises. Unite has stated that it wants "a cast iron guarantee" that public service social care staff will continue to work in the publicly owned sector, and I am happy to give that. There is no circumstance in which we would want to see a transfer of public sector staff to independent providers. We continue to encourage everyone to play a full role in the co-design process for the national care service to ensure that we collectively deliver the public services that people need.

**Paul O'Kane:** The minister's answer would be funny if this were not such a serious issue. Pat Rafferty, the Scottish secretary of Unite, has described the National Care Service (Scotland) Bill as "not fit for purpose". Unite's intervention joins a growing chorus of voices raising significant concerns about the lack of clarity on what the bill will achieve in practice. All of that begs the question of why the bill was not co-designed from the beginning, before we had the proposed legislation in front of us.

Unite's withdrawal is a significant development. The union represents thousands of social care workers who are on the front line of delivery. On countless occasions, the minister has talked about the importance of a co-design process in shaping the national care service. Can he explain why so many stakeholders, particularly those representing front-line care workers, have lost confidence in his national care service proposal?

**Kevin Stewart:** In all of this, we have to listen to the people of Scotland, and particularly the voices of those with lived experience who want change in our social care system. Scotland's community health and social care system has seen significant incremental change over the past 20 years but, despite that, people with experience of care and support, and of providing it, have been clear that significant issues remain. Change of the scale set



out in the bill is necessary to deliver consistency in the quality of care and support across Scotland, the care and support that people deserve and the ending of postcode lotteries. The bill sets out a framework for change, and it is important that the Parliament has a chance to scrutinise that framework early to empower people to contribute via the co-design process.

**Paul O’Kane:** The minister talks about listening to people, but he has his fingers in his ears. How many key stakeholders will have to withdraw from the co-design process before he starts treating the issue with the seriousness that it demands? The concerns that Unite has raised reinforce wide-ranging concerns that have already been aired by professional bodies, trade unions and front-line workers. Many trade unions have described the bill as not fit for purpose, and many have said that the minister needs to get back round the table, do the co-design process properly and think again. Indeed, the Parliament’s own Finance and Public Administration Committee—

**The Presiding Officer:** Can we please have a question, Mr O’Kane?

**Paul O’Kane:** —which is chaired by a Scottish National Party colleague, voiced its concern on the cost of the bill. The minister needs to wake up and smell the coffee—

**The Presiding Officer:** Mr O’Kane, you need to put your question, please.

**Paul O’Kane:** Will the minister recognise that his proposals have lost the confidence of key stakeholders and commit to pausing the bill?

**Kevin Stewart:** I and the Government will continue to listen to people, but the top priority here is the voices of people with lived experience who feel that there have been huge implementation gaps over the years in our social care system. That is why we agreed to co-design with the voices of lived experience and other stakeholders. We will listen to Parliament, look at the parliamentary committee report and listen to trade unions. I have already said that I am more than willing to listen to Unite on the matter, but one of the key elements is that we have to listen to the people who are in receipt of care and support, who want change and want an end to the postcode lotteries that currently exist.

**Craig Hoy (South Scotland) (Con):** The Scottish Conservatives have warned for months that the Scottish National Party’s plans for a national care service are unnecessary, unworkable and could fatally undermine local care provision. Now that Unite has warned that the plans will push staff and the control of social care into “unspecified, unaccountable ministerial quangos”, will the minister finally throw in the towel and instead put all his energies into fixing the

crisis that the SNP has created in Scotland’s social care system?

**Kevin Stewart:** We are not waiting for the national care service to improve social care in Scotland. We are very pressured at the moment, in both our health service and our social care system, and what we see is a need for change. What is going on at the moment quite clearly shows that change is required. *[Interruption.]* Mr Hoy may shout “piffle” from a sedentary position, but I think that, if he spoke to people from across the country who are in receipt of care and support, they would say that change is required. That is why the Government has brought forward the proposals. We will continue to listen to people, but we must listen first and foremost to those who are in receipt of that care and support.

**Emma Harper (South Scotland) (SNP):** Could the minister give an indication of how much of the social care workforce is unionised and what benefits he thinks the national care service will bring in terms of pay, conditions and sectoral bargaining?

**Kevin Stewart:** The 2017 labour force survey indicated that 19 per cent of social care workers have their pay and conditions affected by agreements between employer and trade unions. The national care service will provide for full sectoral bargaining and therefore lead to greater equalisation of pay and terms and conditions across the whole of the social care workforce. By rewarding and valuing the workforce fairly, we will deliver the best possible service for the people of Scotland and make the sector fit for the future and more attractive to people coming into the profession.

**Willie Rennie (North East Fife) (LD):** I am not sure that undermining trade unionism is the best way to go about trying to listen to the trade unions. The minister said that he is listening, but the Unite trade union has stopped listening to him. The bill has few friends. It was condemned by the Finance and Public Administration Committee and criticised by the Education, Children and Young People Committee, and the Government still cannot make its mind up whether children’s services should be in or out. Children are an afterthought once again. The bill is doomed. Why can the minister not see the writing on the wall?

**Kevin Stewart:** I should declare an interest as a trade unionist. I am a member of Unison and someone who will never ignore the trade unions, because I have been a trade unionist for all of my adult life. We will listen to people as we move forward, but change is required. The change that is required is brought to the fore by the voices of people with lived experience, who are often forgotten about in the debates that we are having in Parliament about the national care service. We

must get it right for people, remove the postcode lotteries that currently exist and rid ourselves of the implementation gaps. By co-designing the service with people with lived experience, carers, front-line staff, trade unions and other stakeholders, we will get it right for the people of Scotland. We have to have a sustainable—

**The Presiding Officer:** Briefly, minister.

**Kevin Stewart:** —care system for the future, and that is what we intend to do.

**Stephen Kerr (Central Scotland) (Con):** It is clear that the minister is on a repeat cycle with his answers, and is not answering the questions that are being asked. Let me ask him again about Willie Rennie's point on the co-design of the future of children's services, because it remains very unclear. When precisely will the minister resolve the concerns of people who work in children's services, and when will the Government finally disclose what the future of children's services looks like in relation to any future national care service, however dubious the possibility of establishing one might be?

**Kevin Stewart:** I apologise to Mr Rennie for missing out that part of his question.

The national care service consultation, which was based on the adult social care independent review, added to a number of other questions about where children's services and criminal justice should lie, and whether they should be in or out of the national care service. Obviously, the consultation drew on the recommendations of the Feeley report, but that covered adults only.

The Government has stated that we would carry out work to ensure that we have all the right analysis around whether children's services should be out or in. I will write to the member on the specific date when that work on children's services will finish, but I have relayed that again and again at committee.

We want to get this right for all. We will do so, and we are carrying out the work to do so.

### **Retail Sector (Empty Shops)**

**2. Alexander Stewart (Mid Scotland and Fife) (Con):** To ask the Scottish Government what its response is to a recent study conducted by the Scottish Retail Consortium, which found that one in six shops are lying empty in Scotland. (S6T-01146)

**The Minister for Public Finance, Planning and Community Wealth (Tom Arthur):** Scotland's retail sector is experiencing huge challenges in trading conditions, not least as it tries to recover from the impact of the pandemic. Although there were encouraging signs of increased trade and footfall in the run-up to

Christmas, there is no doubt that the cost of living crisis will continue to impact on businesses and town centres.

The Scottish Government is working with local authorities and key business stakeholders to revitalise our city and town centres. We have established a retail industry leadership group, which I co-chair with the chief operating officer of John Lewis, to work collaboratively to chart a brighter future for retail in Scotland and deliver on the commitments in our retail strategy.

**Alexander Stewart:** The Scottish Retail Consortium and industry bodies have asked that rates relief for small businesses match the 75 per cent that is being offered by the United Kingdom Government. Is that likely to become a reality for the struggling sector?

**Tom Arthur:** As I outlined in an answer to the member's colleague Annie Wells last week, we have set out a package of support through the non-domestic rates system that will see 95 per cent of properties liable for a lower tax rate than they would be liable for elsewhere in the UK. As a consequence of our generous small business bonus scheme—the most generous in the UK—more than 50 per cent of properties in retail, hospitality and leisure will not pay any rates.

The reality is that replicating the reliefs to which the member refers would mean taking funding from elsewhere in NDR or another portfolio area. If any member wishes to advocate that, I would be happy to discuss the matter, but I ask that they identify where the corresponding reduction elsewhere in the budget should be.

**Alexander Stewart:** The crisis on our high streets is stark. Scotland's vacancy rate is above that of the United Kingdom as a whole. Does the Scottish Government accept those findings, and does it acknowledge that it has failed to adequately support the retail sector and high streets in Scotland for some considerable time?

**Tom Arthur:** I recognise that there are variations in occupancy rates across the UK, which reflect circumstances, but I reject the member's assertion that we have failed to support the sector, not least given the support that we have provided through the non-domestic rates system.

Beyond that, we are taking forward work as part of our retail strategy and our town centre action plan, many of the recommendations of which have been given effect through national planning framework 4, which will be adopted formally on 13 February.

I take the opportunity to recommend to members and ask that they engage with the consultation on community wealth building, which I

published this morning. Community wealth building will be an essential tool in revitalising our town and city centres, and I urge all members to take part in that consultation.

**Bill Kidd (Glasgow Anniesland) (SNP):** Many of the levers and resources to deal with the pressures that businesses face as a result of rising energy costs remain reserved. They include VAT on fuel, regulation of the energy market and taxation on windfall profits. Will the minister provide an update on the Scottish Government's latest engagement with the United Kingdom Government regarding the supports that are available to businesses in Scotland to help with rising energy costs? What further measures should the UK Government introduce to mitigate those pressures?

**Tom Arthur:** Bill Kidd is correct to highlight the macroeconomic factors that are outwith the Parliament's immediate control. The significant cut by the UK Government in its support for businesses with their energy costs beyond March is concerning, particularly for the most vulnerable sectors.

My ministerial colleagues wrote to the UK Government at the end of last year to express their disappointment at our lack of opportunities to engage in the review of the energy bill relief scheme and to stress that any continued support should be aimed at the businesses and sectors that need it most. Along with businesses, ministers have repeatedly called on the UK Government to take action, including through a reduction of VAT on energy bills and an extension of the coronavirus business interruption loan scheme and other loans.

**Katy Clark (West Scotland) (Lab):** M&Co Trading, which had a head office in Renfrewshire and has branches across the West Scotland region and the rest of the UK, went into administration last month. What discussions has the Scottish Government had with the administrators and UK Government departments on the matter? Will the Scottish Government set up a task force to support the workforce and ensure that we do not have more empty shops in our town centres?

**Tom Arthur:** I thank Katy Clark for raising that point. I share her concern, not least because there is an M&Co branch in my constituency. I recognise the uncertainty that the situation brings to employees.

I met the administrators of M&Co within the past two weeks. We had a useful discussion, but it is a challenging set of circumstances. I have reiterated that the Scottish Government stands ready to offer support in any practical way that we can if there is an opportunity to save M&Co. However, we are

working, through partnership action for continuing employment, to ensure that support is provided to staff who face redundancy or are at risk of redundancy.

I am happy to consider any options, but, given the challenging set of circumstances, I am not yet convinced that a task force would be appropriate. I would be happy to discuss with Katy Clark what opportunities might be available to provide further support.

## Management of Transgender Individuals in Prison Custody

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

The next item of business is a statement by Keith Brown on an update on the management of transgender individuals in prison custody. The cabinet secretary will take questions at the end of his statement, so there should be no interventions or interruptions.

14:32

**The Cabinet Secretary for Justice and Veterans (Keith Brown):** There has been significant attention on the management of transgender prisoners over the course of the past week, and I take this opportunity to update the Parliament on what we have done and what we will do.

Before doing so, I acknowledge the victims in these cases. We should never forget the victims of crime; I am sure that everybody in the chamber agrees on that. In that regard, I was impressed by the comments that were made by our contributor at time for reflection, who said that we should focus on what really matters and recognise the unique worth of each individual.

I am very conscious of the importance of maintaining public confidence in the justice system, and, for that reason, I am keen that discussion around the issue is as calm and founded on fact as possible. The things that we say in the Parliament have an impact on people, and, in the context of the criminal justice system, they are often very vulnerable people. We must not allow the legitimate questions that are being asked to fuel the view that trans women somehow pose an inherent threat to women, when that is not the case. What is important is the crime that they have committed and the risk that they pose to other prisoners, staff and, indeed, themselves.

We have said this before, but I will say it again: we are talking about a very small number of people. Transgender people in the prison estate account for roughly 0.27 per cent of the entire prison population, which equates to around 20 people out of 7,367 prisoners. The number changes regularly but, as of today, we have around 17 trans women prisoners, the majority of whom are kept in the male estate. On Sunday, it was announced by the Scottish Prison Service that it is doing a further deep dive into those circumstances.

By its very nature, the prison population as a whole has a significant number of people of all genders who represent a risk to others. We must recognise and commend the professionalism and

great expertise of the prison service in managing those complex, high-profile and challenging individuals who are in its care and in keeping others safe.

The existing SPS process applies equally to the arrangements within which the SPS makes decisions about transgender prisoners. The SPS gender identity and gender reassignment policy was adopted in 2014 in dialogue with relevant stakeholders, including criminal justice and equalities organisations. As a general rule, the policy envisaged individuals being admitted to prisons that accord to their gender identity, subject to an individualised risk assessment. That has not changed recently, nor has it been impacted by the recent Gender Recognition Reform (Scotland) Bill, which was passed by this Parliament. I repeat: that has not changed recently, nor has it been impacted by the recent Gender Recognition Reform (Scotland) Bill, which was passed by this Parliament.

There is no automatic right or policy in Scotland for trans women to serve a sentence in a female prison, nor for a trans man to be in the male estate. The Prison Service retains the ability to place people in a prison that may not correspond to their identified gender, and it makes those decisions on the basis of a rigorous and robust individualised risk assessment and by taking account of all relevant factors, including the safety of the individual, of other prisoners and of staff. No transgender prisoner will be placed in the general population—either male or female—without that risk assessment.

It is the long-standing position of the Scottish Government and the SPS that we do not comment on individual cases. However, that is challenging to sustain when there is substantial public debate and concern about a particular case. With that in mind, and in the context of everything that has already been said about two cases that were reported in the media last week, I make the following points.

At the times when those cases were brought to public attention, the SPS had not taken decisions about the future placement of the individuals concerned; the process of considering those cases was still under way. I offer a reassurance that, during the period of risk assessment of the prisoner who had been convicted of rape and admitted to HMP Cornton Vale, the individual was segregated from the rest of the prison community, in accordance with the Prison Service's established policy and practice. While that assessment was in progress, a decision was taken by the SPS that the individual should be transferred to the male estate. The SPS was, of course, aware of ministers' views—it would be, frankly, bizarre if the SPS had not been aware of

ministers' views—but it remained an operational decision for the SPS, based on the available information.

I also make it clear, given that the issue has been raised, that the decision to accommodate that prisoner in HMP Cornton Vale while the risk assessment was done was made without ministerial involvement or awareness and was in line with existing procedures. The other individual identified in the media was in, and remains in, the male estate.

Neither of the cases that have been highlighted arose from any change to Scottish Government legislation or policy or from any change to the risk assessment procedure operated by the SPS in recent years. Each case arose from specific circumstances. We have fully acknowledged the concerns that have been raised in respect of those cases and have responded swiftly. Given the public concern about those cases, it is right that the SPS has acted to bring absolute clarity to the position.

On Sunday, I released a statement confirming measures that will be taken pending the outcomes of two reviews. The first of those is the SPS's review of its current policy on the management of trans prisoners, which is being undertaken in dialogue with the Scottish Government and other stakeholders. During 2022, a consultation exercise was undertaken with interested parties, including women and other prisoners and staff. The draft revised policy will be independently assessed by experts in women affected by trauma and violence. We expect the review to be completed in the coming months, and we will ensure that Parliament is kept informed, given the strong interest in the issue.

The SPS is also now undertaking an urgent lessons learned review in relation to the case of Isla Bryson, with any learning to be applied immediately to existing cases of transgender people in the prison estate and to any cases of those coming into custody. That review will report to the SPS chief executive at the end of this week, and I will write to update the Criminal Justice Committee next week on the outcome of that review. The timescale for any subsequent action will depend on the review's findings.

Until those reviews are complete, no transgender person who is already in custody with any history of violence against women, including those with any history of sexual offences against women, will be moved from the male to the female estate. In addition, no newly convicted or remanded transgender prisoner with any history of violence against women will be placed in the female estate. For clarity, that definition includes any history of violence, including sexual offences.

If, following thorough and robust risk assessments and taking account of all relevant factors, it is felt that there are exceptional circumstances in a particular case, the approval of ministers will be sought. That is not dissimilar to the situation that was announced last week in England and Wales. That the Scottish Prison Service will seek ministerial approval for those particular cases will not change the general position that decisions on the management and accommodation of prisoners within the prison estate have been and will continue to be operational matters for the Scottish Prison Service. That is in keeping with the delegated authority under which the Scottish Prison Service operates and it is in line with the public interest in the matter. Those arrangements will allow for exceptional circumstances to be considered and agreed while the reviews are in progress.

It is right that the actions that we have taken will continue to ensure that we respect and protect the rights of trans individuals, wherever they are in society, including in our prisons, and that we continue to consider and protect the safety of all prisoners and staff.

The actions that I have announced and that the SPS is progressing aim to provide immediate assurance in the context of the public concern raised by the two recent cases. The outcome of the reviews that are being progressed will ensure that any immediate lessons are learned from the issues that have been identified by those cases and that the wider review of the Prison Service's current policy on the management of trans prisoners and the subsequent application of that policy take account of relevant factors including input from experts in women affected by trauma and violence.

Ultimately, it is vital that future decisions about the location and management of prisoners continue to be based on thorough risk assessment, drawing on the expertise and input of relevant professionals, with the priority of ensuring that all individuals who work in our prisons and people who are in the care of our prison staff are kept safe. That has always been and will always be the absolute focus of the Scottish Prison Service.

**The Presiding Officer:** The cabinet secretary will now take questions on the issues that were raised in his statement. I intend to allow about 20 minutes for questions, after which we will move on to the next item of business.

**Russell Findlay (West Scotland) (Con):** They say that a week is a long time in politics. Well, only six days ago, I asked Keith Brown about a double rapist in a women's prison and he stood right there and backed the decision to send this sex offender to Cornton Vale. Less than 24 hours later, Nicola

Sturgeon was forced into a humiliating U-turn and the rapist was rightly removed.

What I want to know is this: now that Keith Brown has told us today that ministers had no awareness of this rapist's move to Cornton Vale, will he explicitly state that none of his officials had prior knowledge? Will he publish a detailed timeline of these critical events, including all correspondence?

**Keith Brown:** First, what I have just said and the further assurance that was provided over the weekend do not in themselves say that any different decisions would be made by the Scottish Prison Service in relation to those two cases than have been made. The changes that have been announced in terms of the public assurance on Sunday do not change the Scottish Prison Service's procedures.

In relation to further information, I am pretty sure that this is going to be discussed both in the chamber and in this Parliament's Criminal Justice Committee. I have mentioned already that I am writing to the committee. I have written to the committee today and I will write to it again next week.

In the meantime, I am happy to look at the requests that Russell Findlay has made. As far as possible, I am happy to provide the information, if I can, that he has asked for.

**Katy Clark (West Scotland) (Lab):** As the cabinet secretary said, we are talking about a small number of people. The current policy was devised in 2014 without the experiences and interests of women being taken into account. Will the cabinet secretary now withdraw the 2014 policy, put a hold on transfers and give an undertaking that there will be full scrutiny of the draft revised policy, including a debate in the chamber?

**Keith Brown:** On the last point that Katy Clark raises, it is not for me to schedule the business of this Parliament. Members are, of course, able to ask for that debate if that is what the Parliament wishes to have.

In relation to the very legitimate point about ensuring that the policy takes account of the interests of women and, in this case, women prisoners in particular, I can say that there has already been that consultation. I think that I confirmed that last week as well. I am also aware of the responses to that consultation—both the concerns that have been raised and other aspects of that response.

If it is possible for me to not breach any confidentiality in providing that information, which is quite granular information about the cases raised, I will certainly do that.

However, I am happy to give Katy Clark an assurance that the scheduled review, which has been impacted by the pandemic, is now at the stage of being considered by legal services—to make sure that it fits into the legal framework—and discussed with the trade unions that are involved. The member may have heard today from the general secretary of the Prison Officers Association Scotland on the issue.

Those are the two remaining parts to that review. They will be carried out and we will bring the review forward in due course. It will then, of course, be open to Parliament, if it wishes, to decide to debate those findings.

**Audrey Nicoll (Aberdeen South and North Kincardine) (SNP):** Does the cabinet secretary agree with Phil Fairlie, assistant general secretary of the Prison Officers Association Scotland, who said this morning that

“the prison service is best-placed to make those decisions”?

**Keith Brown:** Yes. As I have said before, I have complete confidence in the Prison Service's ability to deal with such operational matters. Given the public concern over the recent cases, it was right to bring absolute clarity to the position and, therefore, to the process that has been set out to achieve that.

There are number of other interesting quotes from the assistant general secretary. He said that the system has worked extremely well, providing safety for prisoners and for prison staff—for whom, obviously, he has a particular responsibility. It would be useful for those people who are very concerned about the safety of prisoners—women and others—to look at the comments of Phil Fairlie in the interview that he gave today. They would find some real reassurance about the processes that are being followed.

**Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con):** Ministers intervened and overturned the decision to send double rapist Isla Bryson to a female prison, yet an equally violent sex pest—Katie Dolatowski—was sent to Cornton Vale last year, with no questions asked. It seems that the First Minister has abandoned her self-identification policy for prisons—or is it just the case that women's safety and dignity matters to the Scottish National Party only when it makes front-page news?

Given that the First Minister says that women's concerns are not valid, and given the red flags for other single-sex services such as women's domestic shelters, does the cabinet secretary still back the principle of gender self-ID?

**Keith Brown:** I support the principle of gender self-ID. I have just said so. Presumably, Rachel

Hamilton does not believe me when I tell her that the decision was not overturned but that, rather, a decision was taken by the Scottish Prison Service to take Isla Bryson to the male estate. That decision was made by the Prison Service, not by ministers. It is hard to proceed on the basis of a calm and considered debate on such things if the facts are misrepresented in such a way. I have confidence in the way that the prison service has conducted those decisions, and I believe in gender self-ID.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** Will the cabinet secretary clarify whether any legislation is needed to implement any changes in policy direction following the review, or whether any legislation has an impact on the review?

**Keith Brown:** Any further action will be determined on the outcome of the wider policy review and, if any legislative changes are required, they will be taken forward, as is the ordinary course of such things. However, the Scottish Prison Service policies have in no way been changed or impacted by the recent passing of the Gender Recognition Reform (Scotland) Bill, which, in any event, as most of us know, is not yet in force.

**Pauline McNeill (Glasgow) (Lab):** Why was the destination of the convicted rapist who was referred to in the statement changed from Barlinnie prison to Cornton Vale prison in the first place, and why has the Government repeatedly defended the SPS risk assessment as “robust”, given that, clearly, it was not robust, because, as previously mentioned, those risk assessment rules allowed a paedophile to go to Cornton Vale—which ministers knew, because I raised it directly with them? If any lessons are to be learned, does the cabinet secretary agree that the Government, too, should learn some lessons, one of which is to include the safety of women when it looks at prison policy?

**Keith Brown:** On the first point that was raised by Pauline McNeill—as to why there was a change for the person who was mentioned, to go from Barlinnie to Cornton Vale—that is not a decision for ministers. We are not involved in such things and, despite what was said, we would not, in fact, be aware of them, as they are for the Scottish Courts and Tribunals Service and the Prison Service.

It was also entirely consistent with the Scottish Prison Service policy from 2014 that that would be the prison—the women’s estate—for people who identify as women. That would be the normal practice. However, as to that point, as I am sure the member will be aware, many of our prisons have both males and females in the estates. That is true of a number of prisons—for example,

Polmont, Edinburgh, Greenock and Grampian. However, as the assistant general secretary of the POA pointed out, that involves their being segregated and having no interaction with the general population, pending assessment—and their possible placing, as happened in this case, in the male estate.

As I mentioned, I cannot comment further on individual cases. I am happy to discuss offline with Pauline McNeill the other case that she mentioned, if that is possible. However, as I have demonstrated, in relation to the wider review that is being taken forward, it is the case that the interests and views of women, in particular, are being taken forward, have been listened to, have been canvassed and will form a part of the consideration of that wider review. That is just as it should be.

**Gillian Martin (Aberdeenshire East) (SNP):** When the media take hold of an issue, it can be difficult for us and the general public to know the facts and the detail behind the stories that make the headlines, and, given the confidential nature of the information, it can be difficult for those in authority to answer those claims directly. Yet, risk assessments for the placement of transgender people in prison have been in place for years in Scottish prisons.

The public need to be reassured that the SPS risk-assessment process for the placement of prisoners is sufficient to protect the prisoner and others in the unit in which they get placed. Will there be, as part of the proposed SPS policy review, a review of the risk assessment processes? How will Parliament be able to scrutinise the reviews?

**Keith Brown:** The public should be reassured about the processes that are currently in place. The track record of the Prison Service demonstrates exactly how effective they are. To refer once again to those who have to work on the front line, their trade union representatives say that they have been used to doing this over many years and do it very successfully. It is, of course, one of the many challenges that they face.

On Gillian Martin’s question about whether the review will take into account the assessment process, the wider review will look at the management of transgender prisoners as a whole. It will take in every element of that. In order that the Parliament can have its say, we will update the relevant committee once that work has been finalised.

**Alex Cole-Hamilton (Edinburgh Western) (LD):** The Scottish Liberal Democrats believe that anyone who has committed sexually violent crimes and poses a risk to women should not be housed with women in the female prison estate, and that

view is shared by Scottish Trans and Rape Crisis Scotland.

This will have been a triggering and bruising episode for survivors of sexual offences and for the trans community, and public trust in prison safeguarding will have been dented. Is the cabinet secretary confident that the outcomes of the reviews will be enough to restore that public trust? What further steps does the cabinet secretary's Government plan to take to reassure people and heal the divisions in our society?

**Keith Brown:** On the last point, I can make sure that we can discuss these things in a civilised way, with reference to the facts. I recognise that that will be very important in taking some of the heat out of the situation.

I also recognise what Alex Cole-Hamilton says about the position of the Liberal Democrats on the safety of women in prisons. He cited, I think Scottish Women's Aid and Rape Crisis Scotland, and the latter organisation was until very recently being demonised—wrongly, in my view.

These are perfectly legitimate concerns, which is why we took forward the initiatives. I believe that trust in the Prison Service is well placed, but, of course, it is right that we should continually monitor such processes, especially when they are so sensitive. That is exactly what is happening with the policy review, so I hope that it will provide further reassurance to the public—and the organisations that Alex Cole-Hamilton rightly cites—about the effectiveness of the processes that we have in our prisons.

**Collette Stevenson (East Kilbride) (SNP):** Does the cabinet secretary agree that prison staff's experience is vital in dealing with the issue and that their views, as well as their safety and wellbeing, should be considered in the reviews?

**Keith Brown:** I agree with that. I think that I have already said that the process that the policy review is following is now entering the stage of consultation of trade unions. As I have mentioned, the review has already heard from other groups.

We should never accept that prison officers should take, if you like, whatever risk comes their way and that that is just what they are there to do. They have to be consulted. I draw a lot of comfort from what we have heard from prison staff representatives about how things are currently working. However, of course it is right that, as we review processes, the views of prison staff, who share the risk that has been described, are listened to and taken into account.

**Maggie Chapman (North East Scotland) (Green):** I was struck by the line in the cabinet secretary's statement saying that

"We must not allow the legitimate questions that are being asked to fuel the view that trans women somehow pose an inherent threat to women, when that is not the case."

The cabinet secretary will be aware of recent data that shows an increase in attacks against trans people. Does he agree that the weaponising of trans prisoners by certain individuals will serve only to make trans people more vulnerable? Can he comment on how we can ensure that no prisoners are made less safe because of recent events?

**Keith Brown:** On the last point, I have tried to describe how we can try to keep prisoners safe. Of course, as Maggie Chapman will understand, there is, among staff in our prisons, a heightened sense that we should do that .

I agree—I have commented on it—about the position of trans women. As I have said, perhaps the best way to provide reassurance is to discuss matters in a calm way that takes into account and starts from the question of how we keep everybody safe. It is perfectly legitimate for people to question whether we are doing that effectively—I think that we are—but we can do that in a way that recognises that the primary concern of us all is the safety of all prisoners and staff. We can have a debate that should not give rise unnecessarily to what Maggie Chapman rightly drew attention to, which is the increasing number of hate crimes, or hate incidents, against trans people. There has been a very substantial increase, and we should always be mindful of that.

**Jamie Greene (West Scotland) (Con):** The cabinet secretary will be aware of an important but pertinent amendment of mine that was passed and absorbed into the recent legislation. The amendment places a statutory duty on the Government to report on the placement of transgender prisoners in the prison estate.

The SPS review was due last summer. We have no idea why it has been delayed; frankly, its absence has not helped the current situation or helped to reduce the heat around the debate.

Irrespective of what happens to the recent legislation, will the Government, in the spirit of transparency, commit today to that reporting requirement? In my view, it requires no legislation but is, in the light of recent events, a sensible and prudent thing to ask of the Government.

**Keith Brown:** First, I agree that that is a sensible suggestion. If Jamie Greene will forgive me, I will have further discussions—one of which I am due to have tomorrow with the Criminal Justice Committee. I will see how the committee would best like that suggestion to be taken forward. However, I have no objection in principle to the point that has been made.



Given the public interest in the matter, it is as well that as many people as possible are aware of all facts. There are unfounded statements circulating—for example, on social media—so I mention again the idea of further reporting. I have mentioned the extent to which I am trying to keep the committee involved. I have written to it today and will write to it again next week. The commitment is that we will go back to the committee after the review, so the letter next week will be about the short-term review that will report this week and—of course—the wider review.

On the delay to the wider review, the review was hugely impacted by Covid. It is being taken very seriously, so, as I have mentioned, as well as analysis and consultation, we are now in discussion with the trade unions and legal services to ensure that everything is absolutely as it should be. I agree that it would have been more useful for us to have had the review now, but the pandemic cannot be wished away and it is what caused the delay.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** I think that we all agree that it is important that the human rights of all parties be considered in balance in the placement of prisoners. Can the cabinet secretary provide assurance that that will continue to remain at the core of considerations?

**Keith Brown:** Absolutely—I am happy to give that assurance. In any event, even if we had wanted a different option, we have no option but to do that. It is the right thing to do.

I am also happy to provide the assurance that the SPS is undertaking rigorous human rights impact assessments as part of its wider policy. Whether it is the change that the United Kingdom Government announced last week or what we are talking about, the same regard for human rights has been incorporated in the statements. I am sure that that will also be the case going forward.

**Pam Gosal (West Scotland) (Con):** Forgive me, but I am struggling to understand how a male, whether they are considered to be a trans woman or not, who is charged with rape and/or other sexual offences is not considered to be a threat to the female prison population. Was the cabinet secretary fine with rapists being placed in female prisons until last week, or was he unaware of such cases and therefore not on top of his portfolio?

**Keith Brown:** I have already explained that the person who is being talked about now was transferred to Cornton Vale, in accordance with existing policy, and was put in a segregated unit where there was no interaction with the rest of the prison population.

It is also true to say, as I have mentioned, that we have both males and females in a number of

prisons in Scotland. I believe that assessment of the threat or risk is carried out by people who are far more expert in this than—*[Interruption.]*

**The Deputy Presiding Officer (Annabelle Ewing):** We need to hear the cabinet secretary's response.

**Keith Brown:** I am convinced that those people are far more expert in relation to making that judgment than I would be—or, indeed, than Pam Gosal would be. That is where the threat and risk should be properly assessed.

Of course, as I have said, we should continue to review and improve the situation as much as we can. That is the purpose of the wider review.

**Neil Bibby (West Scotland) (Lab):** We have heard about the issues in relation to trans prisoners in the women's estate. The cabinet secretary has described some of the circumstances following risk assessment when a trans prisoner is more appropriately held in the men's prison estate. In that circumstance, what protections are in place for women prison officers in the men's prison estate? Can the cabinet secretary confirm that the policy would not require a woman prison officer to carry out intimate searches on such a prisoner?

**Keith Brown:** SPS processes take that eventuality into account. As well as the risk assessments that I have discussed so far in relation to trans women, in this case risk assessments are day and daily, part of the business of the SPS. On the day when the story broke last week, I was visiting the SPS to see a presentation on how it manages the various serious organised crime groups in prisons, which is a huge task that is now much bigger than it has been in the past. We now have serious organised criminals in every single prison in Scotland.

Whether the risk assessment is of a trans woman who is in the male estate or the female estate or of a trans man or other individual, the risk assessment is carried out in consideration of the risks that that individual might pose, and they are placed accordingly.

I am happy to provide Mr Bibby with information about training in relation to the other issue that he mentioned, but I assure him that a risk assessment is undertaken for everybody who enters the prison system.

**Michelle Thomson (Falkirk East) (SNP):** The cabinet secretary has mentioned consultation of women prisoners on a number of occasions. Can he highlight today how many were consulted, what they were asked, what methodology was used and so on? Will he agree to publish that information if he is not able to do that today?

**Keith Brown:** I will, first of all, check whether any confidentiality agreements were entered into when those people were surveyed and asked questions in the review. I am happy to provide as much information as possible to Michelle Thomson. I will check those matters first and see what information can be passed on. A substantial number of women were consulted and provided their views. I am not certain of the basis on which their views were provided and whether there is a confidentiality requirement, but I am happy to provide as much information as I can.

**Stephen Kerr (Central Scotland) (Con):** The cabinet secretary is, when everyone can see what has happened, straining credibility when he suggests that nothing has changed. Do all the events of the past week not just go to show that the amendment to the bill that was lodged by Russell Findlay and Michelle Thomson should have been accepted by the Government and not dismissed as unnecessary? Have events not shown that it is necessary?

**Keith Brown:** The concerns that underlied that amendment were not dismissed at all. That was demonstrated by agreement to a competent amendment that was lodged by Gillian Martin, the effect of which is, for example, to allow the police to stop the process by putting in place a prevention order, should they have concerns about an individual who is applying for a gender recognition certificate. Those concerns were legitimate and were resolved by the Parliament in legislation that was passed by a large majority including representatives of all parties. I just wish that that democratic process was respected elsewhere.

**Russell Findlay (West Scotland) (Con):** On a point of order, Presiding Officer. In his answers, the cabinet secretary has relied on comments that were made by a Scottish Prison Officers Association official who is, I understand, also a Scottish National Party politician. Can you give me some guidance on declarations of interests by members?

**The Deputy Presiding Officer:** I thank Russell Findlay for his point of order. On the basis that the person who is referred to is an SPOA official, I am not entirely sure that it is for the cabinet secretary to go into the curriculum vitae of that person. That would be for others to do, if they wished to. The member has put his point on the record.

There will be a short pause before we move on to the next item of business.

## Brexit and Workers' Rights

**The Deputy Presiding Officer (Annabelle Ewing):** The next item of business is a debate on motion S6M-07710, in the name of Richard Lochhead, on Brexit and workers' rights three years on. I invite members who wish to speak in the debate to press their request-to-speak buttons now.

15:05

**The Minister for Just Transition, Employment and Fair Work (Richard Lochhead):** Today marks the third anniversary of the United Kingdom formally leaving the European Union; it is the third anniversary of Scotland being taken out of Europe against our will. One thing is crystal clear to virtually every person in Scotland: Brexit is not done—far from it. The economic and social cost to people in Scotland of this disastrous, Westminster-imposed, ideological project continues to grow.

There are several reasons why Brexit is not done. The first reason is the focus of this debate: the UK Government is taking advantage of Brexit to impose a legislative programme that threatens hard-fought workers' rights and protections. The Scottish Trades Union Congress has spent recent months marking its 125th anniversary. However, it is striking to note that, while doing so, the STUC finds itself having to resist those UK Government attacks on workers' rights—we must never take those rights for granted.

As we can see from today's newspapers and broadcast coverage, the economic harm of Brexit is far from over; rather, it is continuing and gathering pace, reducing the size of our economy compared with what we would have expected with EU membership, and cutting the tax revenue that would have been available for public services had we remained in Europe.

Brexit reduced Britain's gross domestic product by 5.5 per cent by the second quarter of 2022 according to the Centre for European Reform. The CER calculates that, in June 2022, UK investment was already 11 per cent lower, and trade was 7 per cent lower, than would have been the case if Brexit had not occurred. Our own analysis shows that Scotland's trade in goods with the EU was lower by £2.3 billion in cash terms in 2021 because of Brexit. Brexit is estimated—this is very timely—to have added 6 per cent to the rise in food prices. Given that the rise in the cost of living is affecting everyone in Scotland, that is a significant cost of Brexit. The loss of freedom of movement is contributing to labour shortages and harming business, with skills shortages being felt more acutely in rural areas—particular sectors,

such as agriculture, tourism and hospitality, are all bearing the brunt.

Last week, the UK chancellor talked about Brexit “energising growth” and “declinism” being wrong—he said that we should stop being declinist. Well, he may not want to be a declinist, but he is certainly a denialist. Ironically, around the same time, *The New York Times* published an article entitled “Britain’s cautionary tale of self-destruction”. Leading historian Adam Tooze has reported that the UK is experiencing the worst productivity slow-down in 250 years. The *Financial Times* tells us that UK households are now 20 per cent worse off than our north-western European neighbours. Just this morning, as I said, we saw reports that Britain is the only major industrialised country set to see its economy shrink this year. All of that damage is happening against the will of the people of Scotland.

As new research published this week has shown, not a single constituency in Scotland believes that it was right to leave, yet we were taken out against our will. We now face a conspiracy of silence between both the Labour and Tory parties at Westminster. Labour and the Tories favour not just Brexit—

**Sarah Boyack (Lothian) (Lab):** That is a bit ironic, given that David Lammy made a significant speech last week and our members have been banging the drum about the mistakes that the Tory Government is making. Mr Lochhead’s allegation of silence is totally inaccurate.

**Richard Lochhead:** Every commentator across these islands has noticed how the Labour Party does not want to talk about Brexit. Starmer has given no indication that he wants to discuss it and certainly no indication that he wants to take the UK back into Europe—or, indeed, the single market, as he has said in the past few days. We hear from Labour and the Tories that Scotland and the UK have been taken out of not just the EU but the huge single market and the customs union.

Today’s debate is an opportunity to speak up against the very real threat to workers’ rights and the rights of trade unions, and to speak up for a social partnership approach in the mainstream European tradition, in which co-operation replaces confrontation. It is also an opportunity to debate what could be done if the Scottish Parliament had access to full employment powers to make the most of the progressive consensus on workers’ and union rights that I believe exists in Scotland and across the chamber.

**Willie Rennie (North East Fife) (LD):** I agree with much of what the minister says about the disaster of Brexit. We supported the Government’s efforts on the keeping pace powers. Is he able to update members on how many times that facility

has been used and what the plans are for the future?

**Richard Lochhead:** Partnership action for continuing employment—PACE—is an excellent initiative that has helped many people get back into work who have, unfortunately, been made redundant.

**Willie Rennie:** I think that we are talking at cross-purposes.

**Richard Lochhead:** Are we talking about different initiatives?

**Willie Rennie:** I was talking about the keeping pace powers that the Scottish Government has sought to deploy.

**Richard Lochhead:** I apologise to Willie Rennie. I had my employment hat on, as I was speaking about workers’ rights and PACE.

We want the pace to be maintained as much as possible, but we have many other ideas, which I will come on to, that will improve both the situation for workers in Scotland and the Parliament’s powers. The evidence is piling up that, even before Brexit, Westminster economic management was resulting in an economy that was characterised by stagnant wages and low productivity. Since Brexit, the situation has deteriorated further.

The ending of freedom of movement has had a huge effect on key economic sectors, including food production and manufacturing, hospitality and social care. Those sectors have experienced large decreases in the number of EU workers, along with recruitment challenges and skills shortages. In the latest published data, one third of Scottish businesses reported experiencing a shortage of workers, while almost 40 per cent reported difficulties in filling vacancies. At the same time, the UK Government is using the cover of Brexit to start tearing up workers’ protections and trade union rights.

As a Government, we are committed to continuing to work in partnership with trade unions. Our position is in stark contrast to that of the UK Government, which has continuously sought to undermine workers’ rights to strike. Despite the UK Government already having the most stringent anti-union laws in western Europe, it seeks to pass legislation that will further undermine and weaken workers’ rights.

The UK Government’s intention to discard vital standards and protections that have been built up over 47 years of EU membership through its rushed Retained EU Law (Revocation and Reform) Bill puts at risk vital workers’ rights and protections, as well as environmental, food and animal welfare standards and consumer

protection. It also, of course, brings business uncertainty.

According to the UK Government, all law derived from EU membership must be reviewed, or it risks disappearing by the end of this year. That includes regulations on working time and parental leave, the Transfer of Undertakings (Protection of Employment) Regulations and regulations on agency workers and part-time workers, as well as a raft of health and safety legislation. The bill puts vital workers' rights and protections at risk, including the right to a 48-hour week, to minimum rest periods and to annual paid leave entitlements, as well as the right to paid maternity or parental leave. As Unison's general secretary, Christina McAnea, said:

"the government should be creating stability and certainty—not a bonfire of workers' rights and decades of legal wrangling."

The Scottish Government is firmly opposed to any weakening of workers' protections. We call on the UK Government to withdraw the bill and have already recommended that the Scottish Parliament should withhold its consent.

Not content with that "bonfire of workers' rights", the UK Government has sought to pour yet more fuel on the fire. Expanding on the Transport Strikes (Minimum Service Levels) Bill that was introduced to Parliament last year, the UK Government has pushed forward with its new Strikes (Minimum Service Levels) Bill with as little parliamentary scrutiny as possible.

Under current legislation, provided that a union organises a strike in accordance with rules set out in the Trade Union and Labour Relations (Consolidation) Act 1992, the union cannot be sued for damages and workers cannot be sacked. However, under the Strikes (Minimum Service Levels) Bill, which was debated in the House of Commons this week, unions and individuals would have to comply with draconian legislation on minimum service levels to maintain those basic rights. As Dr Deborah Dean, the co-director of the industrial relations research unit at the University of Warwick, has asked, to what problem is raising the threat of sacking essential workers the answer? In just 18 months, the UK Government has gone from clapping essential workers to seeking out new ways to sack them. The bill is not only unwelcome but unnecessary—in fact, voluntary or contractual arrangements are already in place for many of the key workers the bill covers.

Despite UK ministers desperately trying to present the bill as legislation to set minimum safety levels, the Scottish Government knows that it is not about safety—it is simply about further limiting the right to strike. The Scottish Government is wholly opposed to this direct attack

on workers' rights. It is our long-standing position that a progressive approach to industrial relations, along with greater—not fewer—protections for such workers is at the heart of a fairer and more successful society. The Government strongly opposes any bill that undermines legitimate trade union activity and does not respect fair work principles.

The bill is also ineffective. Far from putting a stop to strikes, it will only agitate trade unions further and inflame rather than resolve legitimate industrial disputes.

The bill is a further attempt by the UK Government to bypass the Sewel convention. Like the Retained EU Law (Revocation and Reform) Bill, the Strikes (Minimum Service Levels) Bill enables UK ministers to take decisions in policy areas that are devolved to the Scottish Parliament.

The bill gives no indication of how minimum service levels might be defined—it leaves that entirely to regulations that are to be made by UK Government ministers. That brings them into operational decisions in areas of devolved competence. The bill gives them the powers to set staffing levels in areas of devolved responsibility, although health, education, elements of transport and fire and rescue services in Scotland are entirely devolved and separate from those elsewhere in the UK. There is no requirement to consult, let alone reach agreement with, the Scottish Government in making such regulations.

Along with the strike-busting Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2022, which were introduced last year, the bill is yet another example of why the Scottish Parliament needs full control over employment powers and levers, which will enable the Parliament to set the legislative framework for our labour market here in Scotland in the 21st century.

The UK Government is clearly on a regressive path. We may not have all the relevant powers, but we are doing everything that we can, with the levers that we have, to drive fair work outcomes in Scotland. We know that fair work brings increased security, better physical health and greater psychological wellbeing for workers. We know that it provides a more engaged, committed and adaptable workforce. It is also good for the economy—it drives productivity, releases untapped potential and inspires innovation.

In the absence of employment powers, we are doing all that we can to strengthen the voice of Scotland's workers through supporting strong trade unions and promoting collective bargaining. It is clear that there are many constraints that we face as a Government, because of the current devolved settlement. We are doing all that we can

with what we have but, fundamentally, that still means that we have one hand tied behind our back.

With more powers, we could introduce a fair national minimum wage that better reflects the cost of living and does not have lower rates for younger workers, or we could strengthen access to flexible working to give parents and carers, most of whom are women, more choice over how to balance caring and employment responsibilities. We could also repeal the unfair UK Trade Union Act 2016.

I am in the last few seconds of my speech, so I will conclude by reiterating the purpose of the debate, which is to acknowledge that, post-Brexit, the UK Government's Retained EU Law (Revocation and Reform) Bill poses a significant risk to workers' rights, which is further compounded by the anti-trade union legislation that has been debated in the Westminster Parliament this week and adopted in previous months. We stand in stark contrast and opposition to the anti-trade union approach that the UK Government continues to take. We recognise that any modern aspirational country would acknowledge and support the role of trade unions in achieving sustainable economic growth and a fairer, more equal and stronger economy.

I move,

That the Parliament acknowledges that, post-Brexit, the UK Government's Retained EU Law Bill poses a significant risk to workers' rights; further acknowledges that this is further compounded by anti-trade union legislation, such as the Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2022, and the new Strikes (Minimum Service Levels) Bill; agrees that a progressive approach to industrial relations along with greater, not fewer, protections for workers is at the heart of a fairer and stronger economy; recognises trade unions as key social partners in delivering economic and social aspiration, and as vital for ensuring that the voices of workers are heard; calls on the UK Government not to erode the hard-won rights of workers, and confirms it is committed to continuing to work in partnership as it responds to the current crisis posed by UK Government legislation post-Brexit.

**The Deputy Presiding Officer:** I call Donald Cameron to speak to and move amendment S6M-07710.1.

**Alexander Stewart (Mid Scotland and Fife)**  
**(Con):** I am sorry; it is me.

**The Deputy Presiding Officer:** I am sorry—I am calling not Donald Cameron but Alexander Stewart.

15:19

**Alexander Stewart (Mid Scotland and Fife)**  
**(Con):** Before discussing the details of my amendment and the subject of today's debate, I

will reflect on what the debate should have been about. The debate was an opportunity for the Parliament to set out its vision for workers' rights in Scotland in the coming years. It was an opportunity to set out the importance to the Scottish economy of fair work and workers' rights. It was an opportunity—dare I say it?—for the Scottish Government to constructively make its case for how such rights should be advanced in the years to come.

However, any hope of such a debate happening today vanished as soon as the Scottish Government published its motion for the debate. It is disappointing but not surprising that the motion is yet another list of grievances and makes no effort to set out the bold vision for workers' rights that the people of Scotland expect.

In his opening remarks, the minister tried to paint a picture of a United Kingdom Government that is determined to undermine workers' rights at all costs. The truth is, of course, somewhat different. The UK has one of the best records on workers' rights in the world, and it has consistently striven to do much more than has been done in many EU member states in different areas. For example, the United Kingdom minimum wage is higher than that in most EU member states. From 1 April, it will increase to £10.42 per hour for those aged 23 and above. That is an increase of nearly 10 per cent on the previous rate, which will leave the UK with one of the highest minimum wages in the world.

We should also remember that United Kingdom maternity leave entitlement is nearly three times the EU equivalent. Statutory maternity leave in the United Kingdom is 52 weeks, of which up to 39 weeks are paid leave.

The right to paid paternity leave was granted in the United Kingdom nearly 20 years before it was granted in the EU, and workers in the United Kingdom receive a minimum of five weeks of annual leave. That is more than the four weeks required by the EU.

We also know that the Working Time Regulations 1998 transposed the working time directive into UK law and that that has been retained through the European Union (Withdrawal) Act 2018.

That shows the highly responsible historical record of the UK Government in continuing to do more in those areas. More recently, loopholes have been closed, such as the one whereby agency workers were employed for less money than permanent employees. The maximum fine for employers who mistreat workers has been quadrupled. Several recommendations from "Good Work: The Taylor Review of Modern Working Practices", which was published in 2017,

have already been implemented. An employment bill, which will further implement the review's recommendations, will be introduced.

It is therefore clear that the improvement of workers' rights is not a finished project; rather, it is an on-going process. Far from being a threat to workers' rights across the UK, Brexit can be an opportunity for the UK to continue to do more in that area.

**Emma Roddick (Highlands and Islands) (SNP):** Will the member take an intervention?

**Martin Whitfield (South Scotland) (Lab) rose—**

**Alexander Stewart:** In a challenging economy and a challenging jobs market, it will be vital to ensure that we have a package of workers' rights that maintains this country's historically high standards while allowing the flexibility that employers will need in the post-pandemic recovery.

I think that Emma Roddick was the first to try to intervene.

**Emma Roddick:** Alexander Stewart talks about the opportunity for improving workers' rights, but the UK Government is still refusing to give Scotland the powers that it needs to improve employment rights. Meanwhile, it prevents people from going on strike, legislates to prevent people from going on strike and refuses to take action on fire-and-rehire zero-hours contracts. Is the member in denial?

**Alexander Stewart:** I am certainly not in denial. Businesses throughout the United Kingdom want opportunity, and businesses in Scotland want opportunity, but the Scottish Government ensures that there are higher taxes and that there are different aspects to the way that government is managed. Earlier, I asked a question about the problems in the retail sector in Scotland. Scotland is not performing anywhere near as well as the rest of the United Kingdom is.

I have confidence that we are moving in the right direction in the area. If the Scottish Government would take a moment to look at the issue more openly, perhaps it would share that confidence.

The minister spoke about the Strikes (Minimum Service Levels) Bill—and, no doubt, other members will do so. It is important to remember that the minimum service levels for which the bill would provide are not unprecedented. Similar laws already exist in a number of European countries, and we have seen that strikes still go ahead even with minimum service levels in place. Far from removing the right to strike, the bill is about maintaining life-and-limb services at all times, and

it meets all the criteria set out by the International Labour Organization.

For all its talk of the importance of workers' rights, the Scottish National Party fails to acknowledge the most important right of all: the right of workers to secure a well-paid job of their choosing. On that issue, Scotland is performing well as part of the United Kingdom, and it is benefiting from a labour market that balances employer flexibility with employee rights. The unemployment rate in Scotland is close to historical lows, at 3.3 per cent, and the number of employees on the payroll continues to grow.

Another vital aspect of the labour market is the right to come here to work. The UK should be a place where people can find a job that takes full advantage of their skills, and it should be a place where employers can find flexible labour. The new UK points-based immigration system that has been created provides easier routes for those who work in shortage occupations, including health and social care. According to the most recent figures, total net migration to the UK was more than 500,000, and there are now 60,000 more EU or non-EU migrants living in Scotland than there were before the Brexit vote.

Nevertheless, it is clear that there are still Europe-wide labour shortages in a number of sectors, so it is important that the United Kingdom Government continues to respond to labour requirements. One such area relates to the seasonal agricultural workers scheme, which greatly benefits a number of soft fruit and vegetable producers across Scotland, including in many sites in Perthshire and Fife, in my region. The seasonal workers pilot, and the full scheme that was then put in place, provided flexibility. However, the Scottish Conservatives knew that there was still considerable concern, and lobbying from us and from a number of sectors ensured that the scheme was expanded to allow up to 30,000 visas in 2021, which was very much welcomed. The UK Government has continued to listen and respond to market needs, so the scheme will now be extended to allow 45,000 visas in 2023. It is important that the UK Government continues to show the willingness to respond to the needs of employers in relation to the labour market following the pandemic.

Given all the workers' rights that have been achieved historically within the UK, it is disappointing that, once again, the SNP is looking to cause grievance, as I have outlined. We face a choice: we can have the competitiveness and constructive working that we want to see or we can have members grandstanding and making political points, as we have heard them do today—the Government has chosen that option.

Regardless of the Scottish Government's approach, Scotland still has at least one Government that is determined to continue working to ensure that our country is recognised throughout the world as a place where individuals can work, do work and want to work.

I move amendment S6M-07710.1, to leave out from "acknowledges that, post-Brexit" to end and insert:

"welcomes the UK's proud record of protecting and enhancing workers' rights and welcomes the fact that it has gone further than the EU in a number of areas; notes that, from April 2023, the UK's minimum wage of £10.42 per hour will be among the highest in the world; understands that maternity leave entitlement is nearly three times higher in the UK compared to the EU equivalent and that the UK introduced the right to paternity leave 17 years before the EU did; recognises that the UK Government is working with industry to reduce labour shortages through programmes such as the Seasonal Agricultural Workers Scheme, and calls on the Scottish Government to work constructively with the UK Government to ensure that workers in Scotland continue to experience the high standard of rights that they rightly expect."

15:28

**Sarah Boyack (Lothian) (Lab):** This is an important debate because it is a chance for us to focus on the mess that the Conservatives are making of Brexit, their false promises and what we can do in Scotland.

The SNP is wrong to claim that Labour has been silent on Brexit. Our colleagues are working day after day to stop the Tory Government's hard Brexit, to have a different approach that supports our businesses and workers, and to stop the damage that the Tories are doing to our economy right across the UK.

As I said in my intervention, David Lammy provided an excellent critique of the Tories last week. However, he did not just do that; he gave a way forward, which involves repairing damaged relations and building closer relationships with the EU and our friends across Europe.

**Alasdair Allan (Na h-Eileanan an Iar) (SNP):** The member probably knows what I am going to ask. Is the Labour Party in favour of rejoining the European Union?

**Sarah Boyack:** I have to say to the member that, if more of his members and supporters had voted to stay in the EU, we would not be in this position. Look at the figures: 36 per cent of SNP voters voted to leave, and a significant number of Labour supporters did so, too. We have a challenge in ensuring that we devolve power to our communities. There is a challenge for all of us.

Ironically, the SNP changes its tactics daily. First, the next UK elections were to be a de facto indyref; then there was to be a de facto

referendum at the next Scottish elections; and then one SNP MP said that there could be a snap Scottish Parliament election, with the vote brought forward from 2026. Angus Robertson has said that the de facto referendum will be on leaving the UK and joining Europe at the same time. However, as ever, there are no details and the difficult questions have been left to one side. We have the same old Tories at Westminster, but we also have the same old SNP in Scotland. There is no clear plan for the people who need support now.

There are elements in the SNP motion with which we strongly agree so, to be constructive, our amendment would keep those bits. The Retained EU Law (Revocation and Reform) Bill is massively damaging and could result in around 4,000 pieces of legislation being wiped off the statute book. That is a massive job for civil servants, and we could lose key protections by accident. The response from businesses, including in the food sector, as well as from trade unions and those campaigning for safety and environmental standards, is absolutely clear. Those bits of legislation were not invented overnight; they are the result of years of consultation and parliamentary scrutiny.

Despite all the warm words from Alexander Stewart, it is important that we reject the Tory Government's proposed anti-trade union laws, which are regressive. They are stepping back in time and do not respect people's hard-earned rights at work. The Tories are not on the side of working people. They have failed to end fire-and-rehire contracts and to ban precarious zero-hours contracts. We have heard all the talk about the minimum wage, but someone who is on a zero-hours contract does not know when they will get that £10 an hour, and people are terrified of losing their employment. Those are all things that we need to change now.

When we campaigned to remain in the EU, we highlighted the dangers of leaving a union that we had been in for decades and losing the certainty and the co-operation that we had built with our European neighbours. Our SNP Government now needs to do much more. We need political leadership rather than a culture of blame that is an excuse for failure.

Let us think about it. The Erasmus scheme could have been replaced by now, to ensure that our young people do not miss out on opportunities to gain skills and experiences that would help them to develop their careers and contribute to our economy. To see the truth of that, we need only look at the Welsh Labour Government's Erasmus replacement—the Taith scheme—under which young people in Wales are now getting those much-missed opportunities.

We want the SNP-Green Government to be more ambitious. I want to focus on the use of procurement powers to deal with some of the issues that Richard Lochhead raised. The SNP-Green Government could be doing things now, right across the public sector, to raise standards, secure decent salaries for workers, invest in skills and secure decent terms and conditions. That is not a far-off promise; it could be done now.

It is no wonder that Unite has pulled out of the national care service process, as that process will not deliver national terms and conditions and career opportunities. We need a fair deal for vital staff. It is no wonder that it is hard to recruit carers, given how they are treated. We still do not have a commitment to pay them £15 an hour; instead, we have £1.3 billion wasted on bureaucracy and centralisation.

We want action now. We will support elements of the SNP motion, but our amendment ends by demanding not only that the Tory Government stops undermining devolution, whether deliberately or inadvertently, but that our Governments work together even when they do not agree.

There has been talk today about working with our European neighbours. We agree with that. However, we do not agree with all the European Governments that have been elected. Democracy means that different countries have different Governments, but that does not mean that we should not work together. We need co-operation with our EU neighbours and with the UK Government.

We want our Governments to sit together and to work co-operatively, whether that is about stronger action on developing the new green revolution and affordable heat and power networks, developing trade relations that support our communities or investing in innovation and research in our universities and businesses. That is what our businesses, workers and communities need now. They do not need more constitutional stand-offs.

We have one Government that excuses its own failures by going into "if only" mode, forgetting its lack of leadership for 15 years. In the other Government, the Tories are clinging on to power for as long as they can get away with it. However, people want change, and that change will come only with a Labour Government that is elected to rebuild the relations that were damaged after Brexit, to rebuild our economy and to rebuild the infrastructure that has been impacted by Covid and the cost of living crisis.

Instead of introducing regressive and unfair trade union laws that would push back our country by decades, a Labour Government would modernise workers' rights for the 21st century. We

would respect and empower workers, giving them democratic and economic rights.

People do not go on strike without thinking about it carefully. It is a big decision. It means a loss of salary. They do it because they are fighting for a better deal and for respect, not just for them but for the future generation of workers. They are fighting to support their families, to pay their mortgages, to pay their rent, to feed themselves and to turn on their heating.

The sooner we get rid of the Tories and replace them with a progressive Labour Government, the better.

I move amendment S6M-07710.2, to leave out from "anti-trade" to end and insert:

"the UK Conservative administration's anti-trade union legislation, such as the Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2022, and the new Strikes (Minimum Service Levels) Bill; agrees that a progressive approach to industrial relations along with greater, not fewer, protections for workers is at the heart of a fairer and stronger economy; recognises trade unions as key social partners in delivering economic and social aspiration, and as vital for ensuring that the voices of workers are heard; calls on the UK Government not to erode the hard-won rights of workers; further calls on the UK and Scottish Governments to work together to solve the problems of the post-Brexit settlement over workers' rights in a way that respects devolution and does not sideline the devolved legislatures, and notes that the next UK General Election is the best opportunity for replacing the current UK Conservative administration, repealing its anti-union legislation and reinforcing workers' rights with a better deal for workers, including ending fire-and-rehire practices, banning zero hour contracts, and delivering government-backed pay negotiations between unions and employers on a sector by sector basis."

15:35

**Willie Rennie (North East Fife) (LD):** We will support Labour's amendment, as it neatly sets out the reasons for opposing the Conservative Government's trade union legislation. It argues for a progressive approach to industrial relations along with greater, not fewer, protections for workers. It states that, at its heart, we need

"a fairer and stronger economy."

I would argue that the Conservative Government has been cavalier, including with the Retained EU Law (Revocation and Reform) Bill, by throwing out perfectly good legislation in a cavalier fashion. It has also been cavalier with its Strikes (Minimum Service Levels) Bill. I think that it is a sign of defeat from the Conservative Government that it is incapable of negotiating agreements with trade unions. Resorting to those minimum standards is very aggressive and no way to have

"a fairer and stronger economy."

Three years on from leaving the European Union, and more than six years on from the vote



on Brexit, let me get this off my chest: I think that we Liberal Democrats were right about Brexit and right to campaign against it. I have always maintained that Britain made a mistake by leaving the European Union.

Europe's largest stock market is now in Paris, not London. The minister said, rightly, that the Centre for European Reform has highlighted that GDP is down for the last quarter of 2022 compared with what it would have been if we had been in the European Union. Investment is also down, goods trade is lower and we are poorer as a result of leaving the European Union.

Mark Carney said:

"In 2016 the British economy was 90% the size of Germany's. Now it is less than 70%."

The devaluation that came with that did not result in an exports boost, because of the trade barriers as a result of Brexit. Michael Saunders, formerly of the Bank of England's monetary policy committee, said:

"The UK economy as a whole has been permanently damaged by Brexit",

and there have been no tangible Brexit freedoms. We have not diverged on standards and regulations, and, other than copying EU trade agreements, the UK has only secured deals with Australia and New Zealand. Even the former farming minister, who partly negotiated the Australia deal, has now condemned that deal.

It was disappointing that, when I asked the minister about the keeping pace powers, he did not have a clue about what keeping pace powers we have utilised. That says something about the rhetoric of this Government. It states a position but rarely follows through. It uses issues such as Europe to advance independence instead of campaigning on Europe in its own right. Even today's motion, tying it up with workers' rights, is an indication that the issues are seen as tools in an argument for independence, rather than in their own right.

I have a constructive approach on Europe. The public mood has turned against Brexit—there is no doubt about that. That change in mood means that I am more optimistic about our relationship with the EU than I have been for some time. There are now efforts across the political spectrum to re-engage. All the UK debate at present is about working with, rather than apart from, the EU.

I do not believe that the Conservatives were ever thinking of adopting a Swiss model, but it reveals a line of thinking. Labour now talks about making Brexit work. My party, I would argue, has a gradualist approach—something that the SNP might be familiar with. We need pragmatism to remove barriers and to align where it is of mutual

benefit. Let me give some examples about how that could be done.

Sarah Boyack already referred to the Erasmus+ scheme. We could get on and do what Wales is already doing with the Taith scheme.

**Emma Harper (South Scotland) (SNP):** Will the member take an intervention?

**Willie Rennie:** Not just now.

Wales has students who are benefiting right now from exchange in other European countries. Why on earth has this Government still not moved forward on the Erasmus+ scheme? We could do that now. We should be an associate member of the horizon university research funding scheme. We could have mutual recognition on trades and professions to allow people to work across the UK and EU.

**Clare Adamson (Motherwell and Wishaw) (SNP):** Will the member take an intervention?

**Willie Rennie:** Not just now.

We could have mutual recognition between the UK and EU registration, evaluation, authorisation and restriction of chemicals arrangements. We could agree a bespoke veterinary agreement to reduce sanitary and phytosanitary checks at the border.

We need advanced linkage between the UK and EU emissions trading schemes, and I hope that the EU will remove the block on the UK application to the Lugano convention, which provides for the recognition and enforcement of a wide range of civil and commercial judgments between the EU and European Free Trade Association states.

With that closer relationship comes the easing—I would argue—of the tension in Northern Ireland, which is at the centre of the issue. It is in the interests of the EU and the UK to be close. We trade, we are Europeans, we share culture and we have common interests. We need to settle the issue.

However, we must learn the lessons from Brexit, and not repeat them with independence. If the past six years has taught us at least one thing, it is that breaking up is hard to do. Even supporters of independence have warned about the current plans. The Sustainable Growth Commission admits the volatility of small economies, and says that independence would mean cuts for up to 10 years.

Senior independence supporter Jonathon Shafi said that sterlingisation

"cleaves so tightly with the economic infrastructure of the United Kingdom, that it undermines the point in pursuing such a project at all."

That esteemed colleague Patrick Harvie said that we would gain

“political independence but without the real economic control”.

The Sustainable Growth Commission agrees that sterlingisation would

“cede effective sovereignty over monetary policy.”

That is important to the debate, because they all say that sterlingisation would erect barriers to joining the EU. Professor Richard Murphy said that

“Without its own currency, Scotland cannot join the EU.”

For as long as we had sterlingisation, not only would we be dependent on the economic decisions of a foreign country over which we had no control, we would be prevented from joining the EU because we did not have our own currency, and that would take 10 years.

The First Minister recently admitted that there would be checks at the border with England, after years of denying it. Let us get this straight: there would be a decade of superisolation, and we would be stuck on our own, outside the UK and the EU. All that is in the words of independence supporters. If we thought that Brexit was damaging, just wait for independence.

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

15:42

**Alasdair Allan (Na h-Eileanan an Iar) (SNP):** Governments sometimes undertake tasks of breathtaking byzantine complexity, and sometimes they do something of such pointless stupidity that few in any party can truly fathom what they have done. Rarely, however, does a Government manage to pull off the two feats simultaneously. The UK Government is, however, working hard to do the political impossible in just that way, in the form of the Retained EU Law (Revocation and Reform) Bill.

I will not rehearse how it was that Scotland did not vote for Brexit and so does not deserve the fallout from it—some things are self-evident. The relevant point today is that even people who voted for Brexit could not in their wildest imaginings have thought they were voting for the REUL bill, which, in tandem with the UK Government’s blatantly anti-trade union legislation, has the potential to destroy decades of legislative progress in protecting workers’ health, safety and wellbeing.

After all, the public was assured by the UK Government and countless project leave advocates, at the time of the Brexit vote and in its aftermath, that workers’ rights would in fact be strengthened outside the EU. Some of them may even have believed what they said.

At least as far as I can understand their reasoning, Brexiteers wanted Parliament—not this Parliament, obviously; the other one—to “take back control” from Brussels. They believed that countless opportunities awaited us once freedom from the EU had been achieved.

I thought, along with most others, that the notion of taking back control was supposed to be about giving Westminster the right to make future laws unilaterally. In other words, if the UK discovered, post-Brexit, that there were things wrong with our laws, the UK Parliament would fix them. Nobody was told that Brexit might also be about scrapping 47 years’ worth of existing UK law and hoping for the best. However, rather incredibly, that is exactly what the UK Government’s Retained EU Law (Revocation and Reform) Bill now seeks to do. It will repeal virtually every piece of UK legislation known to have any European association that was passed during the whole period during which the UK was an EU member state.

This cleansing of the legislative Augean stables will, admittedly, not be done in the 24 hours that were given to Hercules, but the proposed timescale is not far off that in its ambition. We are invited to believe that, within the next 10 months, the UK will have sunsetted—which is to say, scrapped by default—some 2,400 extant UK laws for no reason other than that they have their origins in Britain’s former membership of the EU. Actually, it might be 4,000 laws—nobody really knows.

I apologise for labouring the point, but, just to be clear, we are not just talking about the UK Government abolishing laws that it does not like or might have good reason for not liking. We are talking about its abolishing all those thousands of laws and then trying at some later date to work out what to put in their place. The expert evidence that the Constitution, Europe, External Affairs and Culture Committee has taken has been universally scathing about both how and why it is being done.

Hard-fought workers’ rights and protections are among some of the thousands of laws that the UK Government has in its sights for the post-Brexit bonfire before the end of this calendar year, and, because employment law remains reserved, the Scottish Government cannot move to ensure the continuity of rights and protections for workers directly through legislation.

Of course, there are—other members have alluded to this—things that the Scottish Government can do in the meantime to try to pick up some of the pieces. We can continue promoting fair work, including by paying the real living wage, encouraging employers to adopt flexible working policies and exploring the possibility of introducing a universal basic income to support workers and their families. The Scottish

Government should use every available lever, through public spending and policy agenda, to raise the bar on employment standards.

However, until employment law, business law and other areas are devolved to this Parliament—a position to which all parties who care about such issues should sign up—Scotland is at the mercy of pieces of unhinged UK legislation such as the one that is being discussed today. That is without going into the impact of acute labour shortages that affect almost every sector from agriculture to social care, childcare and the national health service—certainly in my constituency—all of which have been exacerbated by the UK Government's short-sighted fixation with reducing migration at all costs. It is harder and more expensive for businesses to export goods and services to and from the EU and to employ EU nationals in their workforce. The UK Government continues to refuse to engage with the Scottish Government on any viable solutions to those problems, which are of its own making.

Scotland's democracy, economy, environment and consumer and workers' rights all continue to be threatened by the UK Government's ill-thought-out—if they have been thought out at all—plans in the piece of legislation that we discuss. Like a great many people, my most immediate hope in all this is to discover that Westminster has heeded this Parliament's objections to the bill or, simply, to find out that the UK Government merely tabled it in jest.

15:48

**Sharon Dowe (South Scotland) (Con):** The Government's motion speaks of workers' rights but, in reality, the SNP is pursuing its usual tactic of seeking grievances with the UK Government on every single issue. This is another divisive SNP debate. It is not about Scotland's key priorities; it is about the SNP's political priorities.

The SNP could have spent the parliamentary time on how the Scottish and UK Governments could work together to attract workers from other parts of the United Kingdom or further afield.

**Jenni Minto (Argyll and Bute) (SNP):** I am interested to know how Sandra Dowe expects the Scottish Government to work with the UK Government when the UK Government treats the Scottish Government with such visible contempt.

**Sharon Dowe:** We have heard, in every single debate and question in the chamber, that the SNP Government treats the UK Government with contempt. We need to work together constructively, because we have a devolved Government and there are things that the SNP Government is responsible for. We need to focus on that instead of continually trying to cause

division in the United Kingdom. I will cover that in my speech. That would have been a worthy debate in which we could have examined ways to grow Scotland's tax revenues and increase funding for public services. The SNP could have discussed a points-based migration system, which it supported back in 2013 with a white paper from Nicola Sturgeon. That could have been an opportunity to explore what we need to do to attract more highly skilled workers and non-EU citizens.

It could have debated why Scotland is the only UK country—

**Emma Harper:** Will the member give way for a wee quickie?

**Sharon Dowe:** Okay.

**Emma Harper:** The Migration Advisory Committee stated that there is a failure to acknowledge that social care workers are skilled. If that was switched around and they were considered to be skilled workers, we might be able to recruit staff from Europe.

**Sharon Dowe:** That is the point of the whole debate. We could have had a debate about how we can encourage people to come to Scotland and increase our workforce but, instead, we again have a debate on Brexit. The point that I will make in my speech is that we need to concentrate on things that are devolved and that we are responsible for in this Parliament.

**The Deputy Presiding Officer:** Excuse me, Ms Dowe. I am sorry to interrupt. Is your microphone definitely on and in the right position? We are finding that your voice is a wee bit less audible than usual.

That is perfect. Thank you very much. Please continue.

**Sharon Dowe:** The SNP could have debated why Scotland is the only UK country with a projected fall in population by 2045. That could have established why the rest of the UK seems to be better at attracting people to live and work there.

**Alasdair Allan:** Will the member accept an intervention?

**Sharon Dowe:** I am sorry, but I need to make progress.

Instead, this debate is mostly about the SNP Government taking aim at the UK Government. Of course, among the radical claims that the SNP makes, there is plenty that it fails to mention. The SNP does not say a word about the high standards of rights maintained by the UK Government now that we have left the European Union or say that the UK Government has one of the best records in the world on workers' rights. It

does not speak about any of the benefits for business that could come from cutting red tape and bureaucracy.

The SNP does not bring up the fact that the UK already goes further than minimum EU standards on annual leave, paid maternity leave, flexible leave and parental leave or that the minimum wage is higher in the UK than in most EU member states: statistics show that the UK has the fifth highest minimum wage in the world. It does not mention that the UK provided the right to paternity leave almost 20 years before the EU, in the Employment Act 2002, or that UK maternity leave is nearly three times longer than the EU minimum requirement. In the UK, statutory maternity leave is 52 weeks, of which 39 are paid, although EU legislation sets the minimum period for maternity leave at just 14 weeks.

The SNP does not state that the Strikes (Minimum Service Levels) Bill allows the UK Government to ensure that there are minimum service levels for key services including health, education, fire and rescue, transport, border security and nuclear installations or bring up the fact that many countries across the European Union, including France and Italy, also have laws protecting a minimum service level.

What we have ended up with today is an SNP debate that does not advance or protect workers' rights or do anything to improve the lives of the people of Scotland. All that the SNP motion seeks to do is point the finger of blame at the UK Government. Yet again, all that the SNP is interested in doing is complaining that a UK-wide referendum produced a UK-wide result that the UK Government is delivering. As we know, Nicola Sturgeon's Government does not like to respect the results of referendums.

I would have more respect for the SNP on the issue of workers' rights if it approached the subject in good faith and with Scotland's best interests at heart, but it has not done that. The SNP has acted out of blatant political self-interest at every turn. Instead of doing what it could to make Brexit work as well as possible for Scotland, it spent all its energy on trying to exploit it in a vain attempt to drive up support for another divisive independence referendum.

The SNP's tactics are not working. Time and again, it focuses on provoking a fight with the UK Government instead of giving all its attention to Scotland's real priorities, and this debate is no different. It looks less like a sincere attempt to stand up for workers' rights and more like a shabby attempt to further a political grievance.

No matter what the UK Government seeks to achieve, the SNP will oppose it. It is not interested in working together for the benefit of the people of

Scotland. It is solely concerned about its own selfish political aims. I urge colleagues, instead of backing the SNP's latest attempt at division, to support Alexander Stewart's amendment to the motion.

**The Deputy Presiding Officer:** I point out to members that we do not have any time in hand. If they wish to take interventions, which is up to them, they should factor that in to the length of their speeches.

15:55

**Jenni Minto (Argyll and Bute) (SNP):** Three years ago at midnight, in Bowmore, a vigil was held to mark Scotland being removed from the European Union against its will and vote. As the final notes of "Ode to Joy" on a solo recorder drifted into the cold night sky, everyone joined together to sing "Auld Lang Syne". Candles flickered. The mood was reflective but we still had hope that Europe would leave the light on for Scotland.

Only independence offers Scotland the way to rejoin our fellow Europeans, as it would appear that, no matter who holds the keys to 10 Downing Street, there is no route for the UK to rejoin despite widespread polling showing support for that.

Michel Barnier has just released "My Secret Brexit Diary", or "La Grande Illusion" as it is titled in France—the great illusion. I suggest that the great illusion included the misapprehension that UK sovereignty was at stake, the misconception that the EU was undemocratic and the false belief of taking back control.

Scotland voted overwhelmingly to remain in the EU even with the vote leave campaign promising more powers for Scotland.

Another Brexit illusion is clearly the Retained EU Law (Revocation and Reform) Bill, which represents a shameless Westminster power grab and is disrespectful to devolution. It seeks to give UK ministers the power to legislate on devolved matters without the consent of our Parliament. Alongside the United Kingdom Internal Market Act 2020 and the Northern Ireland Protocol Bill, it threatens Scotland's democracy, economy, consumer and worker rights, and environment. Scotland can do so much better than this.

As part of the evidence session in the CEEAC Committee that my colleague Alasdair Allan referred to, I asked the panel of legal representatives for practical illustrations of how the Retained EU Law (Revocation and Reform) Bill would impact on our daily lives. A clear example was given that involved article 157 of the Treaty on the Functioning of the European Union,

because the right to equal pay for male and female workers for equal work or work of equal value is not fully replicated in the Equality Act 2010. Another example involved the working time directive.

However, it was emphasised that EU law is so woven into our laws that it is now difficult to imagine a sector or area of our law in which there will not be an impact of some kind. The REUL bill rips up 47 years of protections for Scotland's workers, the environment and workers' rights, leaving any right that has been democratically shaped by the EU subject to deletion by the end of this year.

As Thompsons Solicitors has said,

"Nobody signed up to giving Ministers in Westminster free rein to abolish, or 're-state', workplace rights like paid annual leave, parental leave and protections on transfers of undertakings".

This is not "taking back control" for UK workers.

With employment law currently being reserved to Westminster, the Scottish Government is unable to improve statutory rights and protections for workers. The Scottish Government's motion highlights the importance of having

"a progressive approach to industrial relations along with greater ... protections for workers",

as well as ensuring that their voices are heard and that they can be represented by trade unions.

The devolution of those powers to the Scottish Parliament would allow us to protect and enhance workers' rights by making the minimum wage the real living wage and tackling the inappropriate use of zero-hours contracts.

I was pleased to see that the constitution secretaries of Scotland and Wales wrote jointly to the *Financial Times* in solidarity with the businesses and trade unions that have voiced clear opposition to the bill.

**Donald Cameron:** On the point that the member made a moment ago about the devolution of employment law, does she agree that the Retained EU Law (Revocation and Reform) Bill gives the Scottish ministers the power to restate retained EU law and therefore to align or keep pace with EU law, as per Scottish Government policy?

**Jenni Minto:** The retained EU law bill gives some powers. However, it is the whole impact of that legislation, which throws us off a cliff edge at the end of this year, that raises the biggest concerns.

I started my contribution by suggesting that the benefits of Brexit that the vote leave campaign promoted were simply an illusion. However, sadly, those myths continue to be perpetrated.

When he signed the Brexit trade deal, former Prime Minister Boris Johnson declared that Britain would be "prosperous, dynamic and contented". In reality, Brexit has crippled the economy of the UK—the only member of the G7, as has been said, whose economy is smaller than it was before the Covid pandemic. Business investment has been damaged; the pound has been devalued, making imports more expensive and stoking inflation; trade barriers have reduced investment; and the ending of free movement has resulted in labour shortages in key sectors, including food production, lorry driving and hospitality.

The downward trend is set to continue. The principal economist at the Confederation of British Industry, Martin Sartorius, said in a statement:

"Businesses continue to face a number of headwinds, with rising costs, labour shortages, and weakening demand contributing to a gloomy outlook for next year."

Stanley Kubrick said:

"If you can talk brilliantly about a problem, it can create the consoling illusion that it has been mastered."

That is what the Westminster Government is doing. The UK economy is, fundamentally, on the wrong path. Even though the Scottish Government has clearly stated its concerns, the Tory Brexit ideology continues to drive the retained EU law bill and the reduction of workers' rights, as opposed to safeguarding the best interests of our citizens and businesses. Only independence offers Scotland our escape from that illusion.

**The Deputy Presiding Officer (Liam McArthur):** I advise that we are tight for time, so I would be grateful if all members could stick to their speaking allocations, even if they take an intervention.

I call Martin Whitfield. You have up to six minutes, Mr Whitfield.

16:01

**Martin Whitfield (South Scotland) (Lab):** I hear your warning, Presiding Officer.

It is a great pleasure to follow Jenni Minto in the debate. I agree with much of her speech, although I am slightly more concerned about whether Governments speak "brilliantly" on this issue, north or south of the border. However, it would be a brave person who could not see that the current post-Brexit settlement is not working for Scotland or for the UK; and, from discussions that I have had, I am not sure that it is working for Europe.

The belligerent attitude of the Tory Government at Westminster is jeopardising not only future co-operation with our EU friends and allies but the rights and protections of workers and consumers at home. The Tories are continuing to govern to

appease a faction within their party, rather than in the interests of this country. The next general election is the best opportunity for replacing a tired and disruptive Tory Government with a reforming, outward-looking Labour Government.

The debate is important for a number of reasons. I will spend a moment talking about the legislative consent process on the Retained EU Law (Revocation and Reform) Bill—albeit not from the positions that have already been posed during the debate. I am very open to interventions regarding the Scottish Government’s attitude to the Constitution, Europe, External Affairs and Culture Committee—indeed, it is a great pleasure to see so many of the committee’s members in the chamber. That is because I am concerned that, to a greater extent, in this and in previous debates, and over motions that the Parliament has voted on, the very positive work that is being done by the committee—which, I understand, has already heard oral evidence and has taken written evidence in respect of these matters—is being curtailed.

Our committees are the source of expertise on which members make decisions. It may well be that members, as a whole, agree—in fact, I would probably go so far as to say that I would be surprised if they did not agree—with the way that the debate is progressing. However, I am concerned that, on a number of occasions, the Government has, through the Parliamentary Bureau, chosen to hold debates that cut across questions that we have asked or instructed committees to look into.

I do not raise that as a fight or a matter of contention, but it would be interesting if, in the summing-up, comment were made as to why it was felt necessary to do that. I have great faith in our committee system, but that faith can exist only if our committees are handled with, and shown, respect by the Parliament as a whole and by the Government.

In the short time that I have, I want to take the opportunity to talk about some of the other Brexit legislation and EU programmes that have gone to challenge, and the fact that the Tories have needlessly taken the UK out of additional schemes that were separate from our membership of the EU. I talk, of course, about the Erasmus+ programme for education and the crucially important horizon Europe research and development scheme. Although the SNP promised a replacement for Erasmus+, I understand that it will not act on that until at least 2026.

I draw members’ attention to the fact that the Labour Government in Wales has already replaced Erasmus+ with its own Taith programme, which supports learners and staff across all kinds of education providers, formal and informal.

Learners and staff are benefiting from the more than £13 million that is available to all sectors for this year’s projects. Pathway 1, which focused on mobility of participants, launched in February last year. Its projects are bringing to 5,000 staff and learners in Wales opportunities for life-changing learning experiences across the world that involve 75 countries, 28 of which are in Europe.

On 5 October 2022, pathway 2 opened for applications. It is designed to give even more support to projects that have a more strategic focus on things such as developments in education, diversity and inclusion, and climate change. Two million pounds has been made available for such projects in schools and the adult education, further education and vocational education sectors. That is a Labour Welsh Government promise and delivery of a partnership that endures despite the loss of Erasmus+.

It is to that that we should look for our young people—that promise of reaching out across Europe and further so that young people experience culture, friendship and challenge. Those things would make them greater contributors back home in Scotland, when they returned, than the things that they face now. With the greatest respect, I say to the SNP-Green Government that it is devastating that we cannot offer those things to our children who are in high school now. At the earliest, it will be children who are currently in primary school who will be able to benefit from the promises that have been made. That is a dire disappointment for our young people, and it is something that a Labour Government at Westminster would seek to change.

The horizon Europe programme is about developing the industries of the future with the technologies, skills and workforce for the future, and that could make Scotland a better and stronger place.

I whole-heartedly agree with Sarah Boyack, who spoke about the “if only” attitude of so many Governments north and south of the border: “If only we had this,” “If only we did that,” and “If only they did this.” That speaks to the fact that the two Governments—the Government in Scotland and the Government at Westminster—need to sit down together and talk, even if they do it quietly, and reach a considered understanding that works for the people of the UK.

**The Deputy Presiding Officer:** You need to conclude, Mr Whitfield.

**Martin Whitfield:** My colleague Sarah Boyack called it an “if only” attitude, but I find it to be mainly deflection and a case of always blaming someone else.

**The Deputy Presiding Officer:** I remind members that if any member makes an intervention and is planning to speak later in the debate, they will need to re-press their request-to-speak button.

16:08

**Kaukab Stewart (Glasgow Kelvin) (SNP):** “Brexit—three years on.” What a dismal phrase to hear, particularly in Scotland, where, in 2016, 62 per cent of people voted to remain in the EU, which was a much higher proportion than the 51.8 per cent across the UK who voted to leave. In Glasgow, 66 per cent of people voted to remain in the EU, and, as recently as August last year, a Panelbase poll for *The Times* newspaper found that 72 per cent of voters in Scotland would now vote to remain in the EU.

However, here we are, three years on, reaping the economic and social whirlwind of the most ludicrous, self-destructive policy that a nation has inflicted on itself in recent times. Citizens, workers and students look on as their employment rights and living standards are stripped away before their very eyes. So many promises were made by Brexiteers, and so many promises have not been delivered.

Workers’ rights are already under threat from yet another Tory Government, which is pursuing legislation that will, in effect, ban strike action and whose Public Order Bill would result in unprecedented restrictions being imposed on the right to protest in England and Wales. Without a doubt, the Retained EU Law (Revocation and Reform) Bill poses the most serious threat to workers’ rights. So many of our employment rights are bound up with EU membership and, in particular, with the European social chapter.

I remember the heady days of the 1997 general election, when not a single Tory MP was returned in Scotland. Tony Blair’s Labour Party finally managed to win, and he made good on his commitment to remove the Tory opt-out from the social chapter of the Maastricht treaty, which meant that, at last, UK citizens gained access to rights that were enjoyed by workers across the EU—rights relating to working hours, childcare, parental leave and health and safety. Things, they told us, could only get better.

However, we are now locked in a UK that is run by increasingly right-wing Tory Governments. We have had our EU membership removed, against our democratically expressed view, and it appears that not a single unionist party is interested in our returning to EU membership or in standing up for the full range of rights represented in the social chapter. The trade union Unison has warned us about the Retained EU Law (Revocation and

Reform) Bill. It is a warning that we ignore at our peril. Unison states that the bill

“has set a fast-moving conveyor belt in motion, which will see all protections for workers and UK citizens that come from EU law fall off a cliff in December 2023, unless the government decides to produce new and equivalent UK laws.”

I am a trade union member and I have attended many trade union rallies outside this Parliament in recent months, including rallies by the Fire Brigades Union and the University and College Union. Although there is anger, and clamour for investment in people and in the services that they provide, at more than one of those events I have heard an acknowledgement that dealing with the Scottish Government is completely different from dealing with the UK Government. I suggest that that is because the Scottish Government is committed to a progressive approach to industrial relations and recognises trade unions as partners in delivering economic and social goals.

Which of us believes that the UK Tory Government has any interest in resolving current disputes in partnership with trade unions and the workers they represent or in developing employment law that will safeguard rights in the way that they are protected today by the various clauses of the EU social chapter? I suspect that neither the trade unions nor the striking workers believe that. I certainly do not.

I hope that colleagues across the chamber acknowledge the potential bonfire of workers’ rights and protections that the Retained EU Law (Revocation and Reform) Bill represents. Scotland must not sit on the sidelines in that debate. Time and again, we have made clear our views on EU membership and the benefits that it confers. I echo the words of those who will gather this evening to call for the EU to leave a light on for Scotland. I, for one, hope that we will be back one day, ideally as an independent nation.

16:13

**Maggie Chapman (North East Scotland) (Green):** As others have said this afternoon, Brexit has been an unmitigated disaster for Scotland. On the third anniversary of Scotland being taken out of the EU against our will, we know that Brexit has increased staff shortages in the national health service, social care, hospitality and other sectors. It has damaged Scottish businesses and has ended the right of people in Scotland to live, work and travel across the continent.

In the run-up to the European Union referendum in 2016, many of us who campaigned to remain part of that union talked about the importance of the rights and protections that our membership of the EU afforded us: workers’ rights, environmental standards and the wide-ranging protections under

the European Court of Human Rights. We were told by Brexit supporters that we were scaremongering—that none of those rights or protections were under threat. Indeed, promises were made to improve things. However, we know now, just as many of us knew then, that those promises were hollow and empty.

We have clear evidence of that now. The UK Government's Retained EU Law (Revocation and Reform) Bill will mean that all EU law-derived UK legislation will automatically be repealed and will, therefore, expire on 31 December this year unless specific legislation is implemented by the UK Government to retain it. So, unless we get explicit, positive action by Westminster, existing employment protections will be lost at midnight on 31 December. That creates a very uncertain outlook for the future of employment legislation. What we are seeing are regulations and bills at Westminster that will further erode the rights and protections of workers. Let us remember that we are not exactly leading the world on the protections that we do have in place compared to some of our European neighbours. I will say a bit more about what we could do on that later.

First, I want to spend a moment reminding us all how EU membership significantly enhanced the rights of one group of workers. Gender equality is a founding aim of the EU and it is recognised as a fundamental right in EU law. Since the UK joined the EU, in 1973, women in work have gained significantly from this strong underpinning to their rights. EU laws that the UK has drawn on have expanded the right to equal pay, strengthened protection from sex discrimination and improved remedies and access to justice for women who have been unfairly treated. They have strengthened protection for pregnant women and new mothers in the workplace, and they have created new rights that have helped women to balance work with care and have encouraged men to play a greater role in family life. They have benefited the many women who work part time or on a temporary basis, improving their pay and conditions and giving them access to rights at work from which they were previously disqualified. I know that many of us in the chamber do not want us to lose any of those protections.

There are other significant implications for workers' rights. We face the possibility of losing employee protections such as the TUPE rules and of changes being made to part-time, fixed-term and agency worker regulations. Specialists in employment law, industrial relations and human resources have a good understanding of the industrial chaos that would result from the material undermining of employee rights and protections, unlike most of the "red-tape bonfire" politicians who are in favour of Brexit. Those specialists are also clear that it would be a disaster for workers,

and for their employers and the wider economy in the longer term, if we ended up with weaker health and safety protections, if discrimination in the workplace was easier and cheaper, or if our trade unions were no longer able to organise, campaign for and deliver better conditions for workers as a whole.

Alexander Stewart said earlier that we should be discussing opportunities for improving workers' rights in Scotland. Well, maybe if his colleagues, along with those in the Labour Party who actually vetoed it, had supported the full devolution of employment law to Scotland during the Smith Commission, in 2014, we might be able to do just that and have a much more meaningful discussion and debate today. I would love to be discussing how we could strengthen trade unions in Scotland, how we could outlaw zero-hours contracts across the board and not just for our public sector workforce, and how we could require all employers to provide safe travel to and from work, but we just do not have those powers, because parties that are represented in the chamber refused to give them to Scotland.

However, we are taking some of the steps that we can take within the limitations of the devolved settlement. We secured a commitment to conditionality in public sector grants as part of the Bute house agreement with the Scottish Government. That makes this the first Government in Scotland to enshrine the criteria of the fair work first framework—effective voice, opportunity, security, respect and fulfilment—in its contracts with the public sector. We have done that because we know that workplace fairness and equity underpin economic efficiency and productivity. We believe that public sector funding should lever in wider benefits for our society as a whole. We know that, when workers are well supported, well compensated and well treated, they are happier and healthier members of society who are less reliant on social security and health services.

We have more to do—of course we do—but we know that the Brexit bonfire of regulations and laws that the UK Government seems to be content to stoke and tend will be bad for everybody. It will be bad for workers, bad for Scotland's economy and bad for everybody who lives here. We need to do whatever we can to resist those changes and to enshrine workers' rights in Scots law.

16:19

**Clare Adamson (Motherwell and Wishaw) (SNP):** As it is the last day of January, I will quote from Robert Burns:

"The best laid schemes o' *Mice an' Men*  
Gang aft agley,  
An' lea'e us nought but grief an' pain,  
For promis'd joy!"



The bard could have been writing about Brexit, which represents the biggest act of self-harm that politicians in Westminster have wrought on the UK. If only the leave campaign, the European research group and the voters outwith Scotland and Northern Ireland had listened to our “counsels sweet” and had heeded our “sage advices”. Yet here we are. The erstwhile triumphalism of 2020 seems oddly muted as we mark three years since Brexit officially darkened our doors.

The Brexit agenda has driven us to the worst economic outlook for generations. As the International Monetary Fund reported today, the UK forecast leaves it as the only country in the G7 with an economy projected to have negative growth, and even Russia, with a litany of economic sanctions in place due its shameful invasion of Ukraine, has a more positive growth forecast. The UK is in rapid, sustained and self-inflicted decline.

A decade-long Westminster assault on our public services and social security system has compounded the current cost of living crisis. The conversation has shifted from a stark choice between “heating or eating” because, now, many cannot afford either. Reliance on the third sector to fill in for UK Government failures continues apace. Food bank demand surges and the Tory response is indifferent. We are steadily normalising food banks, which are wholly indicative of state failure. There is more to come. There were reports this morning that the Kantar Group’s data shows grocery inflation running at 16.7 per cent, which is adding £800 a year to shopping bills.

The interparliamentary forum, which I attended as convener of the Constitution Europe External Affairs and Culture Committee, was dominated by post-Brexit problems. At the most recent IPF, we had a session focused on touring artists. Complex bureaucracy that we were promised would disappear—remember that bonfire of red tape?—means that short-term working in the EU has become incredibly difficult for UK music workers. Visa costs and cabotage issues mean that touring Europe as a UK service is a nightmare. That is disastrous for our artists and national performing companies, which are already contending with recovery from a pandemic. As Michel Barnier put it on Sunday,

“Not all difficulties come down to Brexit, but I am convinced that Brexit makes everything more difficult.”

Our students are being denied opportunities through Erasmus, and our universities are at a rank disadvantage as horizon funding is held to ransom. Westminster has failed to resolve the implementation issues over the Northern Ireland protocol, and Ursula von der Leyen’s comments on the UK’s attitude to an international treaty that it seems capable of breaking are well documented.

I am not speaking as the convener today, but I thank my colleagues from the Constitution, Europe, External Affairs and Culture Committee—and Martin Whitfield, in particular—who have highlighted our work and published reports and have reflected on some of the evidence that we took in our inquiry on the Retained EU Law (Revocation and Reform) Bill, although the report is not due to be published for a few weeks.

The committee’s findings from its post-Brexit UK internal market inquiry demonstrate that there are fundamental concerns that need to be addressed by the Scottish Parliament in relation to how devolution works outside the EU. In our report on the legislative consent memorandum for the Northern Ireland Protocol Bill, the committee said that

“the Bill provides further evidence for the need to re-set the constitutional arrangements within the UK following EU withdrawal, both in respect of relations between the UK Government and the devolved governments and between the four legislatures and governments across the UK. These relations are clearly not working as well as they should and this needs to be addressed.”

That is about not grievance or disrespect but a broken system following Brexit. As we agreed in our September 2022 report on the impact of Brexit on devolution,

“the Sewel Convention is under strain”,

and the First Minister has said that it is broken. The Institute for Government put it this way:

“there is a risk of the convention, and the legislative consent process that puts Sewel into practice, collapsing altogether.”

That is the legacy of Brexit.

The REUL report will come out soon. I commend my colleagues again for raising the points that have been made on animal welfare, regulatory chaos, employment rights and product and chemical safety by stakeholders such as the Faculty of Advocates, the Law Society of Scotland, trading standards officers, NFU Scotland, the RSPB and Scottish Environment LINK—the list goes on. That leaves me with one question for my fellow Scottish people: are ye yes yet?

16:25

**Jamie Halcro Johnston (Highlands and Islands) (Con):** In his opening speech, my colleague Alexander Stewart hit the nail on the head when he said that this could and should have been a debate about the Scottish Government’s vision for workers’ rights, the importance of fair work and the contribution that workers’ rights make to our economy. However, as is ever the case with the Government, it has been another debate in which ministers and SNP members are sent out with their prepared soundbites to play

grievance bingo. Therefore, I will reiterate some of the points in our amendment that my colleagues Alexander Stewart and Sharon Dowey have already made, but which are worth making again.

First, the UK Government has, time and again, repeated its commitment to maintaining and enhancing workers' rights. It has demonstrated that commitment. The United Kingdom has one of the best records on workers' rights in the world. The minimum wage is already higher in the UK than it is in most EU member states, and it will rise by nearly 10 per cent in April. Maternity leave entitlement in the UK is nearly three times higher than the EU equivalent. The UK introduced the right to two weeks of paternity leave 17 years before the EU did, and the working time directive has been retained in UK law under the European Union (Withdrawal) Act 2018.

The UK Government has made clear its determination to build on the progress that has been made over a number of years. That progress means that workers' rights in the UK already go further than those in many countries in the EU. However, that is not what people in other parties—particularly the SNP—want people to believe.

As is so often the case, the nationalist narrative is far from reality. In respect of the impact of leaving the EU, it is further from reality than normal. For example, the number of non-EU nationals in Scotland has increased by 29,000, while the number of EU nationals in Scotland since Brexit has increased by 31,000. There are now more EU nationals living in Scotland than there were before Brexit. That is welcome because—to quote the words of former Prime Minister Theresa May—

“EU citizens make an invaluable contribution to our United Kingdom: to our economy, our public services and our everyday lives. They are an integral part of the economic, cultural and social fabric of our”—[*Official Report, House of Commons*, 26 June 2017; Vol 626, c 302.]

society.

That is very different to the language that was used by the then SNP deputy leader, Nicola Sturgeon, in 2014. Responding to reports—which were later confirmed by the EU itself—that an independent Scotland would not gain automatic entry to the EU, she said:

“There are 160,000 EU nationals from other states living in Scotland, including some in the Commonwealth Games city of Glasgow. If Scotland was outside Europe, they would lose the right to stay here.”

What a surprise that we do not see that on the SNP leaflets that are sent to EU nationals.

However, we cannot be complacent, because there are labour shortages in Scotland and the UK. There are labour shortages in the EU, too. That has been a constant theme through the work

of the Economy and Fair Work Committee, of which I am a member. We have heard from a number of sectors, including tourism and hospitality, about the challenges that they face in recruiting and keeping staff.

Some of those issues were issues even before we left the EU, because Scotland was not attracting the inward migration that our economy needed. That has continued, with even David Bell, who is a member of the Scottish Government's regional economic policy advisory group, suggesting that although the UK's post-Brexit immigration policy was “showing promise”,

“Scotland punches below its weight in attracting foreign migrants”.

Other issues are hangovers from Covid. An increase in economic inactivity is a challenge for countries all around the world. Getting people back into work, which includes supporting them, where necessary, is something on which all Governments need to focus. That is why it is disappointing that the Scottish Government has cut more than £50 million from its employability budget.

The Government and employment sectors also need to work better together to make sectors more attractive. They need to work with our further education and higher education institutions and with apprenticeship providers to support the recruitment pipeline.

There are areas where the UK Government can act, and already has acted, to alleviate shortages. Health and care professionals who are looking to come to work in the UK can access a fast-track visa application process. Lobbying by the Scottish Conservatives and others has meant that the number of seasonal workers who are allowed to come and work in UK agriculture has been increased to 30,000.

I turn briefly to the Strikes (Minimum Service Levels) Bill. The new legislation will not make the UK an outlier; EU countries including Spain, France and Italy already have in place similar legislation. The bill is about balancing the right to strike with the need for key services to continue. It aims to protect key services including health, education, fire and rescue, transport and border security. I think that most people would consider that to be entirely reasonable.

However, as predictable as the nationalists' claim that independence is the answer to everything is Labour's go-to position of calling for another general election. On strikes, as on so many issues, Labour's position is utterly confused. Its UK leader, Keir Starmer, would not let his MPs join picket lines. He has said that

“you can't sit around the cabinet table and then go to a picket line.”

He even sacked his shadow transport minister for doing just that.

Tomorrow, when hundreds of thousands of people are prevented from going to work, Labour MSPs will choose not to go to work. They will not show up for work when others cannot, but we Conservatives will be here tomorrow to do our job.

More Scots voted to stay in the UK in 2014 than voted to stay in the EU in 2016. Three years on from the UK leaving the EU—

**The Deputy Presiding Officer:** You need to conclude now.

**Jamie Halcro Johnston:** —and despite years of taxpayer-funded nationalist agitation and obsessive ministerial navel gazing, most Scots still want to remain part of the UK.

**The Deputy Presiding Officer:** You need to conclude. I will move on to the next speaker—

**Jamie Halcro Johnston:** They want more collaborative working—

**The Deputy Presiding Officer:** Mr Halcro Johnston, could you resume your seat? I indicated earlier that members should stick to their speaking time allocation.

I also remind members of the expectation that, after they have delivered a speech, they will remain in the chamber for at least two speeches.

16:32

**Katy Clark (West Scotland) (Lab):** As a number of members have said, it is becoming increasingly clear what a complete disaster Brexit is, with labour shortages, difficulties in obtaining many products and appalling growth predictions. I welcome this timely debate, which focuses on workers' rights—rights that were hard fought for.

During the EU referendum campaign, trade unions warned of the risk that Brexit would lead to the loss of vital employment rights and protections. The UK Government's Retained EU Law (Revocation and Reform) Bill shows that trade unions were right in their warnings. The Work Foundation, which is based at Lancaster University, has warned that the bill will put at risk the rights and protections of more than 8.6 million UK workers. The bill could lead to loss of protections for part-time, fixed-term and agency workers, and it could have an impact on other employment rights, including holiday pay and maternity leave.

The UK Government is also using the Strikes (Minimum Service Levels) Bill, which is being debated in the House of Commons, to undermine workers' ability to take strike action in defence of their pay and conditions. That bill will empower

ministers and employers to force workers to work during strike action. If workers fail to comply, they will risk being sacked. Trade unions that fail to comply will face huge damages.

The rights of individuals to take strike action and the rights of trade unions to operate legally were hard fought for. The Taff Vale decision in 1901 led to the Trade Disputes Act 1906, which provided the legal immunity that trade unions currently have when their members take strike action.

However, rather than addressing the concerns of nurses, firefighters, public transport workers and others, the UK Government is now threatening to sack them if they choose to exercise their right to strike. We have gone from clapping our front-line workers to sacking them.

The Strikes (Minimum Service Levels) Bill is fundamentally undemocratic. It will force workers to cross picket lines, even if, in a legal ballot, they have voted to strike. The Trades Union Congress is right to call the bill "draconian".

In the Scottish Parliament, we must oppose the bill and work with trade unions throughout Scotland to protect the right to strike. I am therefore pleased to hear that the Scottish Government is willing to refuse consent to the bill, given the potential impact that it would have in devolved areas.

As the UK Government attacks workers' rights, we must reflect on whether the Scottish Parliament is using all our powers to strengthen workers' rights in Scotland. The Scottish Government's current fair work first approach does not go far enough; fair work first is too focused on encouraging employers to change their employment practices, rather than on delivering enforceable standards that employers must adhere to.

In addition, there is no clear consistency from the Scottish Government in its own application of fair work principles, with employers that have poor records on workers' rights receiving significant public contracts. Amazon has received tens of millions of pounds of public money from the Scottish Government over recent years, despite the fact that we know that the experience of the workers at Amazon warehouses in Scotland is that they have been denied basic employment rights. We have heard reports of workers being forced to stand for hours on end, being denied paternity leave, and even being followed by managers into bathrooms. When I was a Westminster Parliament constituency member, many constituents came to see me who had travelled from Ayrshire to the Gourock warehouse only to be told that there was no work for them, or to be given one or two hours of work when they had expected a full day of work. They were paid only for those hours.

We have heard whistleblowers describing the conditions at Amazon as being those of a work camp. If the Scottish Government is serious about fair work principles, it must cut all ties with employers such as Amazon.

In recent months, Scotland has seen a wave—and it will continue to see a wave—of strike action across the public sector; indeed, there will be strike action in the Scottish Parliament building tomorrow. If the Scottish Government is serious, it needs to engage on fair pay and conditions with the trade unions that represent those workers.

I strongly welcome the debate, but the Scottish Government must do everything that it can to put its warm words into practice.

16:38

**Emma Roddick (Highlands and Islands) (SNP):** It is hard to believe that it has been three years since we left the EU, and it has been a difficult few weeks for anyone who supports independence, devolution or, indeed, democracy. The unprecedented use of a section 35 order to block a bill that was passed with a two-thirds majority in the Scottish Parliament was an affront to democracy, and the subsequent refusal of Whitehall ministers to have a discussion with, and explain themselves to, committees here simply adds insult to injury. Tory MSPs can keep calling for the Scottish Government to work with the UK Government—as they do in their amendment—but Whitehall does not want to work together. We have seen that again and again. Its ministers are not interested in discussion or explanation, and they do not respect the Scottish Parliament.

Section 35 is not the only example of how skewed the union is against Scotland and the Scottish Parliament. Brexit itself was a tough pill for many to swallow. In 2016, all 32 local authority areas in Scotland voted to remain, only for Scotland to be dragged out of the EU anyway, thanks to the decisions of other countries. That demonstrates that we are not a so-called equal partner in the union.

This week, I learned of data, gathered by UnHerd, that shows that all but three UK constituencies now agree that it was wrong to leave the EU. Only 29 per cent of folk in the northern isles and the Western Isles disagree that it was a bad move, and the figure is 27 per cent in Inverness, Nairn, Badenoch and Strathspey. My constituents can see the failure of Brexit for what it is.

Since Brexit, there have been even more efforts to bypass the Scottish Parliament and the people of Scotland through decisions that affect them. Devolution was created with the fundamental principle that anything that is not reserved is

devolved. That is why schedule 5 to the Scotland Act 1998 specifies as reserved matters not only whole portfolios such as immigration, employment rights—which I will come to later—and defence, but more specific issues such as Antarctica, gambling and time and space. It is why specific pieces of legislation, such as the Human Rights Act 1998, are protected from modification by the Scottish Parliament. We can legislate on everything else, because everything that is not reserved is devolved. The Sewel convention states that the UK Government will “not normally legislate” on devolved matters without the consent of MSPs.

That principle has been completely torn up by the UK Government’s actions and its Retained EU Law (Revocation and Reform) Bill. More concerning to workers specifically—but, I hope, to all of us—is what is being pushed through in place of Scotland getting to take decisions itself. The legislation rips up decades—47 years—of progress on workers’ rights, as well as about 4,000 other laws, which are to be replaced by the Conservatives’ race-to-the-bottom attitude. That puts at risk working time regulations; paid annual, maternity and parental leave rights; and rights to breaks. I think that we would be hard pressed to find even someone among those who voted to leave the EU who would say that they did so because they thought that it would put their rights in the workplace at risk.

The approach does not even work. Presiding Officer, I assure you that I would be stood here arguing against this attack on workers even if it were benefiting the economy. However, despite all the rhetoric, the UK Government’s attack on workers, with it racing to deregulate whatever it can, is not even boosting the economy. As my colleague Clare Adamson pointed out, the IMF has just predicted that the UK is the only country in the G7 that faces economic decline—a worse decline than that forecast for Russia. That is ridiculous to the point of being laughable, but I doubt that my constituents will take any comfort from the comedy of it while inflation continues to push the cost of food, energy and building materials out of their reach.

Brexit also resulted in many workers leaving our health and social care sector and the hospitality sector, both of which are struggling in the Highlands and Islands and across the rest of the UK. Staff who are now working extra hours to do the work of vacant positions need more rights, not fewer, but the UK Government is responding with legislation that will prevent them from going on strike to say so.

Opposition members have criticised me and my colleagues for linking the issues relating to Brexit and workers’ rights to independence, but this all

relates to independence. It is not because the constitution is the most important issue on the table but because it will lead to the fundamental change that will transform how whichever parties the electorate puts into government in Scotland at any time can react to events and progress, not regress, the laws of the country. If Scotland were independent today, we might be debating making the changes that Scottish Labour has just been calling for—the same ones that SNP MPs are calling for in Westminster, such as action on fire-and-rehire practices.

**Sarah Boyack:** You are talking about vague plans for the future, but we want to use the powers that the Scottish Parliament has now. That is the key difference. It is about supporting people, businesses and workers now; it is not about your—

**The Deputy Presiding Officer:** Speak through the chair, please.

**Sarah Boyack:** Sorry—it is not about the member's long-into-the-future aspirations, which include no details whatever.

**Emma Roddick:** What I just outlined was quite detailed, and those are not things that Scotland is able to change at the moment. That is the whole point. Given what the UK Government is doing and what we are unable to change right now, I hope that Labour might back us in calling for powers to be devolved so that we can do better by workers.

If Scotland were independent, we could be talking about what is happening in the EU, of which we might be a member, and aligning ourselves with international best practice. We could be making our own way in the world instead of waiting to see how bad the latest UK Government shambles will be for the people whom we represent and hoping that our letters to UK ministers will get a positive response—or a response at all.

It is not off topic to point out that Scotland cannot do anything but call for the UK Government to stop this attack on workers' rights. This is fundamentally about democracy and the right of the people who live here to have a say in how we are governed.

**The Deputy Presiding Officer:** We move to the closing speeches.

16:44

**Pauline McNeill (Glasgow) (Lab):** I recall the surreal moment in the Donald Dewar library when, along with other members, after handing over my mobile phone, I was given 15 minutes to read the highly confidential first assessment of Britain's

decision to leave the European Union. I remember that the assessment was utterly jaw-dropping.

It was the UK Government that led us to this point. It is a result of David Cameron's recklessness and a poor campaign that did not seem to understand that ordinary people felt remote from Europe's decisions and could not see the good that it also did.

As Martin Whitfield said, the current arrangement is not working for Scotland or the UK, and, in fact, it is not working for Europe either. It is certainly not working for workers or ordinary people. People took many things for granted, such as freedom of movement, easy access to Europe and low-cost mobile tariffs, and we are beginning to realise the benefits of being in Europe. Since the vote to leave the European Union, UK and Scottish Labour have insisted that workers' rights should be maintained and enhanced.

As previous speakers—including Willie Rennie in an excellent speech—have said, three years on, we are still arguing about the Northern Ireland protocol. The situation threatens long-term peace, and civil servants have spent tens of thousands of hours on the task of trying to solve the real economic and political problem of goods travelling from Britain to Northern Ireland, which has affected many businesses and patterns of trade.

I have to say that I probably agreed with Willie Rennie's entire speech, and I also agreed with Alasdair Allan's very considered speech. Willie Rennie talked about the UK Government being

"incapable of negotiating ... with trade unions"

when that should be entirely possible. He exposed the fallacy of the trade agreements that we were promised but that we now find do not really exist. We have the agreements with Australia and New Zealand, but we are yet to see whether they will make any difference.

As many members have said, this morning, we heard that the International Monetary Fund is forecasting that the UK economy will perform worse than that of any other major advanced nation. In other words, Scottish workers will count the cost of Brexit. The IMF says that Britain faces

"the bleakest two years of any major industrial nation".

Many core workplace protections such as holiday pay, maternity pay and equal pay for women and men, which Maggie Chapman mentioned, come from the European Union. For decades, European Union laws have ensured decent working standards in the UK, shielding workers from exploitation and discrimination. Trade unions have been crucial in advocating policies on sick pay, maternity and paternity pay, bereavement, health and safety and many other aspects of working life.

Right now, workers do not understand what the Retained EU Law (Revocation and Reform) Bill and the proposed anti-trade union laws mean for them. However, if that bill is passed, it will be yet another slap in the face. As the minister said in his opening speech, unions have described the bill as a “bonfire of workers’ rights”. It sets a time bomb beneath the vital working regulations and other EU-derived laws. Why did we need to get to this point? We have left Europe—I know that many members on the Tory benches voted to stay in the EU—but does it really have to be this bad? Without the shield of EU law, I wonder what workers will be exposed to every day in the UK.

Disabled people, minority ethnic communities, refugees and asylum seekers and women tend to be at higher-than-average risk of poverty and insecure employment or unemployment, which suggests that they are more reliant on public services and anti-discrimination law. The bill poses particular risks to protections for women in the workplace. As Unison has said, some family-friendly policies and even equal pay law might be questioned by the framework of UK legislation.

During the pandemic, young women, particularly young black and minority ethnic women as well as those on low incomes, were less likely to be furloughed and more likely to be surviving without a furloughed salary, so they were most at risk.

If we want to live in a better country, the UK Government really has to step up to the mark.

Recent analysis has shown that the impact of Brexit is acute. Clare Adamson made the point that we can see that the pandemic has caused problems for the economy—of course it has—and now we have the cost of living crisis and inflation, which have had a massive impact on households, but Brexit has made that far more acute.

Scottish Labour calls for the UK and Scottish Governments to work together to solve some of the problems there are, following Brexit. In the previous session of Parliament, I found myself agreeing with Mike Russell on some points on many occasions. Who would have thought it? Not me. However, I was at one with him when he said, as minister, that we have more in common than we have disagreement on what we need to do to make sure that we do not have the worst possible Brexit.

The history of the UK does not matter. What matters is now—and, by the way, I say to Jamie Halcro Johnston that I will be proud, as will other Labour MSPs, to support solidarity for the trade unions tomorrow. Sarah Boyack said that it did not have to be like this. The public did not expect or need the most harmful, hardest Brexit, an irrational immigration framework and the handling of the Northern Ireland protocol destroying our relations

with European institutions. Let us get on with it and see the UK Government step up to the mark.

**The Deputy Presiding Officer:** I call Donald Cameron for up to seven minutes. [*Interruption.*] I now call Donald Cameron for slightly less than seven minutes.

16:51

**Donald Cameron (Highlands and Islands) (Con):** Apologies for that error, Presiding Officer.

This has been a strange debate. Many things have been discussed. We have talked about Brexit, devolution, independence, workers’ rights, strikes and fair work. Those are obviously linked issues, but they are very different. There is a slight sense that they have been jammed together with perhaps a lack of focus, and I have listened very carefully to everyone who has spoken.

As the title of the debate acknowledges, it has been three years since the UK left the EU and almost seven years since the British people delivered their verdict that the UK should leave. Of course, many people here will remember that, in the previous session of Parliament, the SNP Government held debate after debate on Brexit and, in my view, did not offer anything positive to say. Therefore, in some ways, this debate is a trip down memory lane. Yet again, we have an SNP Government that continues to obsess over Brexit and that is, yet again, refusing to accept the democratic outcome that people across the United Kingdom delivered. Instead of trying to make the UK’s exit from the EU a success, the SNP wills it on to fail, and we all know why.

We, on the Conservative benches, have consistently acknowledged the challenges that Brexit has produced. We have always said that there would be issues along the way and that it would take time to adjust, but the unrelenting negativity of the Scottish Government serves nobody and means that the important issues that people across Scotland care about the most remain neglected.

As other speakers have already noted, the UK has often taken the opportunity to go further on a range of areas than other member states of the EU. Let us not forget that Brexit meant that the UK was able to take a more rapid decision on the Covid vaccine, meaning that we had one of the fastest vaccine roll-outs anywhere in the world.

On workers’ rights specifically, the UK has, in a number of areas, already exceeded EU protections for employees, even before Brexit. Of course, people across the chamber will agree that we need the strongest rights possible for workers. People across Scotland expect proper job security, robust working practices, employers to

treat their employees fairly, protection against discrimination and avenues to recourse when a difficult situation arises, but those principles are not undermined because of Brexit.

I will come to the minimum service levels legislation in a moment, but Brexit has led to not one diminution of employment rights. In fact, the UK Government has consistently said that it wants to enhance workers' rights. I welcome the commitment from Rishi Sunak that the UK will maintain high standards in the future and that there will be no race to the bottom.

**Clare Adamson:** Will the member take an intervention?

**Donald Cameron:** I would love to, but I am already down in time.

It is important to understand where the UK stands on workers' rights. I restate what my colleague Alexander Stewart said: the UK introduced the right to paternity leave in 2002, 17 years before the EU introduced it. Maternity leave entitlement is nearly three times higher than the EU equivalent. The UK minimum wage, which is due to rise to £10.42 an hour from April, is one of the highest in the EU27 and the UK. Those are positive things and, although no one is suggesting that we stand still, they are important to acknowledge.

A significant part of adjusting to life after the EU will be listening to employers and employees about the things that work for them, and that is what is being done. Jamie Halcro Johnston referenced the seasonal agricultural workers scheme and the significant point that, since Brexit, Scotland has seen increases in the number of EU and non-EU nationals.

I will briefly touch on the other aspect of the Government motion, which is the reforms over strike action. We recognise that the right to strike is important; in Scotland, we have teachers strikes and the first firefighters strike in 20 years. There is obviously a huge dispute on the subject of pay between the Government and those striking, but no one questions the right of anyone to strike within the law. We believe that striking should be the last resort, and we acknowledge that all Governments have a duty to the public to ensure safety, protect access to vital public services and help people to go about their daily lives. As others have said, many countries across Europe have similar minimum service level laws when it comes to strikes. That is why the reforms are necessary, and I urge the Scottish Government to work proactively with the UK Government rather than carp from the sidelines.

I turn briefly to members' contributions. I have mentioned Alexander Stewart. I listened carefully to Alasdair Allan, but I listened with some

incredulity, because he suggested that nothing would change. Like him, I voted remain, but did he seriously think about what would happen if the UK voted to leave? What would be the point? The whole point of Brexit, whether you supported it or not, is divergence.

Clare Adamson mentioned the work of the committee that she convenes and I sit on. Although I did not agree with much of what she said, it is important to acknowledge the work of the committee and the evidence that we heard of its report on the bill, which is due to be published soon.

We support the strongest rights for workers, and we support the work that the UK Government is doing to ensure that laws that work for employers and employees are protected and enhanced. The UK remains ahead of the EU in a number of areas, and the UK Government will continue to ensure that we remain at the forefront of delivering high-quality jobs and a strong economy.

Instead of fighting old battles as the SNP-Green Government continues to do, we, in the Conservative Party, will look to the future and do whatever is needed to meet the challenges ahead.

16:57

**Richard Lochhead:** Emma Roddick said in opening her contribution that she cannot believe that it is three years since Brexit, and I am sure that most of us are thinking that to a degree. We can also reflect on the fact that many, if not all, of our worst fears have come to pass. Brexit has impacted on our economy, how we travel, jobs, young people, universities and colleges—the list goes on and on. For some Conservatives and, indeed, some Labour members to say that we should perhaps not debate all the points that we have raised today is plain nonsense, because this is about people's livelihoods and the damage that is being caused to Scotland by a Brexit that we did not vote for.

We have lost free trade and freedom of movement. Based on recent Organisation for Economic Co-operation and Development and IMF forecasts, the UK is predicted to have one of the highest inflation rates among the G7 nations in 2023. Many members have raised today's IMF growth forecast, in which the UK is the only G7 nation forecast to have negative growth.

I saw a graph this afternoon that showed the UK coming 30th out of 30 nations on growth and the only country forecast to have negative growth in 2023. The impacts of Brexit are not over, and we are set to lose a lot more. The governor of the Bank of England, Andrew Bailey, said in November that Brexit is causing a "long-term downshift" in UK productivity.

The Office for Budget Responsibility expects UK GDP to be 4 per cent lower as a result of Brexit in the long run. That equates to around £100 billion in lost output and £40 billion in lost public revenues each and every year as a consequence of Brexit—£40 billion in lost public revenues at a time when, over and over in this chamber, we debate the impact of the cost of living crisis.

Many employers across many sectors of the economy are experiencing workforce challenges. The end of freedom of movement has exacerbated labour shortages across key sectors such as food production, manufacturing, administration and, in particular, hospitality and social care. Those are areas of the economy that, typically, used to rely on EU workers.

Data from the business insights and conditions survey indicated that, in October 2022, 39 per cent of businesses with more than 10 employees faced recruitment difficulties. Of those, 23.6 per cent cited fewer EU applicants as a factor, which rose to nearly 50 per cent of businesses in the accommodation and food services sectors. We have consistently called on the UK Government to make urgent changes to its immigration system to enable a migration system that is fit for purpose for Scotland—for instance, by implementing a Scottish rural community immigration pilot and aligning the shortages occupation list and visa conditions to the sectoral needs of the Scottish economy.

Sharon Dowey said that we should not be debating Brexit and that we should be talking about working with the UK Government on how to attract more people to come and work in Scotland to address labour shortages. I have written several times to the UK Government to ask for a labour shortages workforce to be set up with all four nations, but I do not think that I have received a reply yet. I appreciate that the UK Government keeps on changing ministers, but I have written to the newest minister and I am still waiting for their reply. I say to Sharon Dowey that it takes two to tango and we are getting no buy-in from the UK Government to address Scotland's labour shortages.

Another fear that has come to pass is that Brexit would lead to a race to the bottom in deregulation, and another focus of the debate is the impact on workers' employment rights.

As a Government, we have long championed the role of trade unions, and we continue to work in partnership with them as part of our inclusive wellbeing economy. Meanwhile, the UK Government is further entrenching its position as having the most stringent anti-trade union laws in western Europe by seeking to pass yet more legislation to further undermine and limit the hard-fought rights and protection of workers. We

opposed the Trade Union Act 2016 and continue to call for its repeal.

**Michael Marra (North East Scotland) (Lab):** Will the minister reflect on the comments from earlier today of his ministerial colleague who called into question Unite the union's right to speak about the national care service due to what he believed to be a lack of members in the care sector? Does that represent respecting trade unions?

**Richard Lochhead:** Many commentators have looked at the difficult issues that are being dealt with north and south of the border and said that Scotland has been much more constructive in dealing with those issues than the UK Tory Government, which has been aggressive and poured fuel on the fire. That is the wrong way to go.

We have opposed any weakening of workers' rights and protections, which are still under threat from the UK Government's retained EU law bill. We also oppose the proposed legislation on minimum service levels, which would strip workers of their democratic right to strike.

The retained EU law bill puts at risk the high standards that people in Scotland have rightly come to expect from EU membership. The UK Government appears to be rowing back on more than 40 years of protections in a rush to impose a deregulated, race-to-the-bottom society and economy, which we do not want in Scotland. Safe limits on working hours and the rights to take a break, holiday pay, parental leave and more will all become subject to amendment by the UK Government, which has a clear ambition to deregulate and strip back workers' rights.

**Martin Whitfield:** Was any consideration given to the work of the Constitution, Europe, External Affairs and Culture Committee when it came to the scheduling of the debate?

**Richard Lochhead:** If the committee has any concerns, it should write to the relevant minister about the issue.

I turn to the Strikes (Minimum Service Levels) Bill, which has been a focus of the debate. The UK Government has coupled the rush to remove rights for workers with yet more anti-trade union legislation. The bill is just the latest in the series of steps that the UK Government has taken to erode workers' rights and weaken industrial relations. Although the UK Government has claimed that the International Labour Organization supports the bill, it failed to mention that the ILO requires the presence of compensatory measures, an independent arbitrator and many other things, none of which are provided for in the UK Government's bill. In fact, the ILO's director general has said that he was worried that workers



would be forced to accept a situation that is way “below par” compared with the rest of Europe. Many other experts have lined up to criticise what is happening with UK trade union law.

In contrast to the UK Government, this Government maintains a progressive approach to industrial relations, along with greater protections for workers, at the heart of a fairer and more successful society. Governments should be working with the public sector and trade unions to reach fair and reasonable settlements that respect the legitimate interests of workers, not seeking to limit their right to strike. We are doing that through the fair work agenda that some members have mentioned. We have published our action plan to transform Scotland into a fair work nation by 2025. We recognise that the cost of doing business has increased dramatically and that consequential costs have been passed to consumers and customers, but the fair work agenda is as good for businesses as it is for workers.

I do not think that I have ever mentioned the name of one of my relatives in all my years in Parliament, so I am going to do that today. Agnes Somerville Marshall was my great-great-grandmother. In 1866, she lost her father, 57-year-old Thomas Marshall, in a mining accident. She lost her son, David Robertson, who was 22, in a mining accident in 1909. She lost her 58-year-old husband in a mining accident in 1911. Imagine losing your father, son and husband in separate mining accidents.

I mention all of that not only to thank my wife for researching my family history but to explain the many years of blood, sweat and tears that have gone into delivering protection for workers, and workers’ rights, in this country. This Government will oppose every effort to dilute or remove protection for employment or workers. That is part of what this debate is about. The UK Tory Government is using Brexit to try to do that. We need employment powers that are devolved to this Parliament—an idea that is backed by the president of the STUC—to help us ensure that that does not happen.

Most of all, we need independence. We have looked at the damage that Brexit has caused and at the threats to workers in this country. It is clear that we must be back at the heart of Europe and that Scotland’s democratic will must be respected.

**The Presiding Officer:** That concludes the debate on Brexit and workers’ rights three years on.

## Committee Announcements (Economy and Fair Work Committee)

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

The next item of business is an announcement by the Economy and Fair Work Committee on inquiries into a just transition for the Grangemouth area and the disabled employment gap. I call Claire Baker, convener of the committee, to make the announcement.

17:07

**Claire Baker (Mid Scotland and Fife) (Lab):** I welcome the opportunity to highlight two inquiries that the Economy and Fair Work committee is undertaking.

Yesterday, members of the committee visited Enable Works and All in Dundee, which is a consortium that supports people with disabilities into meaningful employment and supports employers to identify and provide job opportunities. I thank Dovetail Enterprises for the tour of its factory. On Monday, committee members will visit Glasgow to see the work that is being done by the National Autistic Society Scotland to support young people into employment.

Those visits are part of our on-going work to look at Scotland’s disability employment gap and what must be done to ensure that the Government meets its target to significantly reduce that gap. Our call for views will remain open for another couple of weeks.

I also highlight the Economy and Fair Work Committee’s inquiry into how we can support, incentivise and de-risk the transition to net zero in a way that will benefit businesses and people. The committee has agreed that the first focus for that work will be Grangemouth. We know that we must all turn our attention to the transition to net zero. That work will consider the impact on and opportunities for the Grangemouth area.

Any member who would like to find out more about either of those pieces of work should not hesitate to contact our clerks.

## Business Motions

17:08

### The Presiding Officer (Alison Johnstone):

The next item of business is consideration of business motion S6M-07735, in the name of George Adam, on behalf of the Parliamentary Bureau, setting out a business programme. I invite George Adam to move the motion.

#### *Motion moved,*

That the Parliament agrees—

(a) the following programme of business—

Tuesday 7 February 2023

2.00 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Topical Questions (if selected)

*followed by* Ministerial Statement: Scottish Government's Response to the Second Round of the Levelling Up Fund

*followed by* Scottish Government Debate: Update on the Social Security Programme Business Case

*followed by* Committee Announcements

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Wednesday 8 February 2023

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions: Covid Recovery and Parliamentary Business; Finance and the Economy

*followed by* Scottish Liberal Democrats Business

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

*followed by* Approval of SSIs (if required)

5.10 pm Decision Time

*followed by* Members' Business

*followed by* Members' Business

Thursday 9 February 2023

11.40 am Parliamentary Bureau Motions

11.40 am General Questions

12.00 pm First Minister's Questions

*followed by* Members' Business

2.30 pm Parliamentary Bureau Motions

2.30 pm Portfolio Questions: Net Zero, Energy and Transport

*followed by* Scottish Government Debate:

International Day of Women and Girls in Science

*followed by* Scottish Government Debate: Scottish Income Tax Rate Resolution 2023-24

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

Tuesday 21 February 2023

2.00 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Topical Questions (if selected)

*followed by* Stage 3 Proceedings: Budget (Scotland) (No. 2) Bill

*followed by* Committee Announcements

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Wednesday 22 February 2023

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions: Rural Affairs and Islands; Health and Social Care

*followed by* Scottish Conservative and Unionist Party Business

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

*followed by* Approval of SSIs (if required)

5.10 pm Decision Time

*followed by* Members' Business

Thursday 23 February 2023

11.40 am Parliamentary Bureau Motions

11.40 am General Questions

12.00 pm First Minister's Questions

*followed by* Members' Business

2.30 pm Parliamentary Bureau Motions

2.30 pm Portfolio Questions: Social Justice, Housing and Local Government

*followed by* Scottish Government Business

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

(b) that, for the purposes of Portfolio Questions in the week beginning 6 February 2023, in rule 13.7.3, after the word "except" the words "to the extent to which the Presiding Officer considers that the questions are on the same or similar subject matter or" are inserted.—[George Adam.]

**The Presiding Officer:** I call Stephen Kerr to speak to and move amendment S6M-07735.1.

17:09

**Stephen Kerr (Central Scotland) (Con):** My amendment seeks to insert a ministerial statement next week on the disruption in our schools.

As teachers continue their industrial action, which is causing no end of disruption, the First Minister and the cabinet secretary continue to pursue a strategy of inaction. Teachers, who do not want to strike, have been left with no options. Parents are having to arrange childcare. Pupils are not in school and they are suffering further disruption to their education on top of the disruption that was caused by two years of the pandemic. That is why I am on my feet, yet again, asking for a statement.

It feels like, every time we get the cabinet secretary to come to the chamber to answer questions, be it on educational attainment, the apprenticeship programme or the current strikes, she must be forced into it. That is not the attitude of a cabinet secretary who is on top of her brief or the attitude of a cabinet secretary who is energised and engaged in her subject area. The Scottish Government's attitude seems disengaged to the point of laziness.

**Michael Marra (North East Scotland) (Lab):** Labour is happy to support calls for a statement on the strikes, which are debilitating for families and schools across the country. When I spoke to the trade unions this afternoon, they said to me that the negotiations have, in effect, ground to a halt. Is that not a disgrace?

**Stephen Kerr:** It is a disgrace. Many members in the chamber, alongside parents and pupils in schools across the country, will have the deepest sympathy for striking teachers. I have sympathy with a profession that seems increasingly to be held in contempt by the Scottish Government.

The Scottish Government is negotiating a pay deal that is now more than 300 days overdue, and we see nothing of the First Minister in any of this. She was fast enough to rush in front of cameras over the past few days, but she shows no animation whatsoever to settle the dispute with Scotland's teachers.

**John Mason (Glasgow Shettleston) (SNP):** Would the member like to tell the Parliament how much he thinks should be offered to the teachers? Is it 10 per cent, 15 per cent or more? Where should that money come from?

**Stephen Kerr:** I say to John Mason that, if we could get the cabinet secretary to come to the chamber to bring us up to date with the negotiations and where things stand, we could perhaps discuss that sort of detail.

This Parliament needs answers. I ask colleagues for their support to get a ministerial

statement on the issue at the beginning of next week. We need to find out what the cabinet secretary is doing. Is she negotiating with the teachers and the councils? We know that, as of 17 January, she had not attended any of the negotiation sessions.

**Willie Rennie (North East Fife) (LD):** Will the member give way?

**Stephen Kerr:** I will give way one more time.

**Willie Rennie:** Does Stephen Kerr find it surprising that the cabinet secretary is so reluctant to update the Parliament about this once-in-a-lifetime industrial dispute when the Government has spent the whole afternoon boasting about its industrial relations exercise?

**Stephen Kerr:** Yes. Willie Rennie is right. There are inherent contradictions in what we hear from members of the front bench and their attitude to the teaching unions and the dispute.

Has the First Minister met any of the teaching unions? According to correspondence that I received this week, which I will share with the Parliament, she has been missing in action. Despite her personal intervention in the local government pay dispute and the train drivers dispute, she has yet to set her hand on the teachers strike.

No wonder members of a branch of one of the teaching unions, the Educational Institute of Scotland, have written to me saying,

"The reason why we are writing to you is because throughout this dispute we have yet to see or hear from the First Minister. We obviously want to get this dispute resolved and get back to teaching our young people, but we need the First Minister to enable us to do this. If you see her, could you let her know we are looking for her?"

That is from the EIS.

Furthermore, the EIS says:

"It is disingenuous and unacceptable for the Scottish Government and COSLA to continue to misrepresent negotiations as positive and constructive."

Are they positive? Are they constructive? We do not know, because all that we get from the cabinet secretary are meaningless platitudes in the form of press statements while the strikes continue.

The cabinet secretary must appear before Parliament. Her laid-back, hands-off approach has failed parents, pupils, communities and teachers. I urge members to support my amendment so that we can scrutinise the cabinet secretary.

**The Presiding Officer:** Mr Kerr, I ask you to move your amendment.

**Stephen Kerr:** Thank you for the opportunity to speak again, Presiding Officer.

I move amendment S6M-07735.1, to leave out from “Tuesday 7 February 2023” to “followed by Ministerial Statement: Scottish Government’s Response to the Second Round of the Levelling Up Fund” and insert:

“Tuesday 7 February 2023

2.00 pm Time for Reflection  
 followed by Parliamentary Bureau Motions  
 followed by Topical Questions (if selected)  
 followed by Ministerial Statement: Teacher Strikes  
 followed by Ministerial Statement: Scottish Government’s Response to the Second Round of the Levelling Up Fund.”

**The Presiding Officer:** I call George Adam to respond on behalf of the Parliamentary Bureau.

17:14

**The Minister for Parliamentary Business (George Adam):** Presiding Officer, you would be a bit shocked to know that we are talking about parliamentary business, because Stephen Kerr went off on one—as I think the term is—so to speak.

Mr Kerr may have said, as he has on numerous occasions, that he was requesting a statement for next week, but this is the first time that the bureau has heard that request. As Mr Kerr knows, there is, rightly, a process—with which the Conservatives are very familiar—by which a statement can be requested. Mr Kerr understands that, as he was the Tory business manager and he used it regularly. However, this was not raised at all at the bureau.

**Members:** Oh!

**George Adam:** As always, we will consider any request for a statement that is raised by business managers through the official route. What we have here is the Conservative party indulging in opposition for opposition’s sake. *[Interruption.]*

**The Presiding Officer:** Let us hear the minister.

**George Adam:** It would be helpful if the Tories moved away from such political shenanigans and discussed requests for business at bureau, as per the norm.

**The Presiding Officer:** The first question is, that amendment SM6-07735.1, in the name of Stephen Kerr, which seeks to amend business motion S6M-07735, in the name of George Adam, on behalf of the Parliamentary Bureau, setting out a business programme, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

There will be a brief pause, to allow members to access the digital voting system. I ask all members who have voted previously today to refresh their devices.

17:16

*Meeting suspended.*

17:21

*On resuming—*

**The Presiding Officer:** The question is, that amendment S6M-07735.1, in the name of Stephen Kerr, be agreed to. Members should cast their votes now.

The vote is closed.

**Ruth Maguire (Cunninghame South) (SNP):** On a point of order, Presiding Officer. My app failed. I would have voted no.

**The Presiding Officer:** We will ensure that that is recorded.

**Kenneth Gibson (Cunninghame North) (SNP):** On a point of order, Presiding Officer. I could not connect to the digital platform. I would have voted no.

**The Presiding Officer:** I can confirm that your vote was, in fact, recorded.

**For**

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)  
 Cameron, Donald (Highlands and Islands) (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)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 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)  
 Lumsden, Douglas (North East Scotland) (Con)

Marra, Michael (North East Scotland) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mochan, Carol (South Scotland) (Lab)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 O'Kane, Paul (West Scotland) (Lab)  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Sweeney, Paul (Glasgow) (Lab)  
 Villalba, Mercedes (North East Scotland) (Lab)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whitfield, Martin (South Scotland) (Lab)  
 Whittle, Brian (South Scotland) (Con)

### Against

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, 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)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 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)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Gillian (Central Scotland) (Green)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)

McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 Regan, Ash (Edinburgh Eastern) (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)

**The Presiding Officer:** The result of the division is: For 54, Against 66, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The next question is, that motion S6M-07735, in the name of George Adam, on behalf of the Parliamentary Bureau, setting out a business programme, be agreed to.

*Motion agreed to,*

That the Parliament agrees—

(a) the following programme of business—

Tuesday 7 February 2023

2.00 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Topical Questions (if selected)

*followed by* Ministerial Statement: Scottish Government's Response to the Second Round of the Levelling Up Fund

*followed by* Scottish Government Debate: Update on the Social Security Programme Business Case

*followed by* Committee Announcements

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Wednesday 8 February 2023

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions: Covid Recovery and Parliamentary Business; Finance and the Economy

*followed by* Scottish Liberal Democrats Business

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

*followed by* Approval of SSIs (if required)

5.10 pm Decision Time  
*followed by* Members' Business  
*followed by* Members' Business  
 Thursday 9 February 2023  
 11.40 am Parliamentary Bureau Motions  
 11.40 am General Questions  
 12.00 pm First Minister's Questions  
*followed by* Members' Business  
 2.30 pm Parliamentary Bureau Motions  
 2.30 pm Portfolio Questions:  
 Net Zero, Energy and Transport  
*followed by* Scottish Government Debate:  
 International Day of Women and Girls in  
 Science  
*followed by* Scottish Government Debate: Scottish  
 Income Tax Rate Resolution 2023-24  
*followed by* Business Motions  
*followed by* Parliamentary Bureau Motions  
 5.00 pm Decision Time  
 Tuesday 21 February 2023  
 2.00 pm Time for Reflection  
*followed by* Parliamentary Bureau Motions  
*followed by* Topical Questions (if selected)  
*followed by* Stage 3 Proceedings: Budget (Scotland)  
 (No. 2) Bill  
*followed by* Committee Announcements  
*followed by* Business Motions  
*followed by* Parliamentary Bureau Motions  
 5.00 pm Decision Time  
*followed by* Members' Business  
 Wednesday 22 February 2023  
 2.00 pm Parliamentary Bureau Motions  
 2.00 pm Portfolio Questions:  
 Rural Affairs and Islands;  
 Health and Social Care  
*followed by* Scottish Conservative and Unionist  
 Party Business  
*followed by* Business Motions  
*followed by* Parliamentary Bureau Motions  
*followed by* Approval of SSIs (if required)  
 5.10 pm Decision Time  
*followed by* Members' Business  
 Thursday 23 February 2023  
 11.40 am Parliamentary Bureau Motions  
 11.40 am General Questions  
 12.00 pm First Minister's Questions  
*followed by* Members' Business  
 2.30 pm Parliamentary Bureau Motions

2.30 pm Portfolio Questions:  
 Social Justice, Housing and Local  
 Government  
*followed by* Scottish Government Business  
*followed by* Business Motions  
*followed by* Parliamentary Bureau Motions  
 5.00 pm Decision Time

(b) that, for the purposes of Portfolio Questions in the week beginning 6 February 2023, in rule 13.7.3, after the word "except" the words "to the extent to which the Presiding Officer considers that the questions are on the same or similar subject matter or" are inserted.

## Parliamentary Bureau Motion

17:23

**The Presiding Officer (Alison Johnstone):** The next item of business is consideration of Parliamentary Bureau motion S6M-07736, on a committee substitute.

*Motion moved,*

That the Parliament agrees that Paul Sweeney be appointed to replace Rhoda Grant as the Scottish Labour Party substitute on the Citizen Participation and Public Petitions Committee.—[*George Adam*]

**The Presiding Officer:** The question on the motion will be put at decision time.

## Decision Time

17:24

**The Presiding Officer (Alison Johnstone):** There are four questions to be put as a result of today's business. I remind members that, if the amendment in the name of Alexander Stewart is agreed to, the amendment in the name of Sarah Boyack will fall.

The first question is, that amendment S6M-07710.1, in the name of Alexander Stewart, which seeks to amend motion S6M-07710, in the name of Richard Lochhead, on Brexit and workers' rights three years on, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

The vote is closed.

**Ruth Maguire (Cunninghame South) (SNP):** On a point of order, Presiding Officer. I am having connectivity issues. I would have voted no.

**The Presiding Officer:** Thank you, Ms Maguire. We will ensure that that is recorded.

**Kenneth Gibson (Cunninghame North) (SNP):** On a point of order, Presiding Officer. I did not manage to connect. I would have voted no.

**The Presiding Officer:** Thank you. We will ensure that that is recorded.

**Carol Mochan (South Scotland) (Lab) rose—**

**The Presiding Officer:** Bear with us one moment. Thank you.

**Carol Mochan:** On a point of order, Presiding Officer. I would have voted no.

**The Presiding Officer:** Thank you. I can confirm that your vote was recorded, Ms Mochan.

**Katy Clark (West Scotland) (Lab):** On a point of order, Presiding Officer. I would have voted no.

**The Presiding Officer:** Thank you. We will ensure that that is recorded.

### For

Balfour, Jeremy (Lothian) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Dowey, Sharon (South Scotland) (Con)  
 Findlay, Russell (West Scotland) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Gulhane, Sandesh (Glasgow) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire)

(Con)  
 Hoy, Craig (South Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Lumsden, Douglas (North East Scotland) (Con)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whittle, Brian (South Scotland) (Con)

### Against

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 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)  
 Choudhury, Foysol (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Gillian (Central Scotland) (Green)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)

Marra, Michael (North East Scotland) (Lab)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNeill, Pauline (Glasgow) (Lab)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Mochan, Carol (South Scotland) (Lab)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 O'Kane, Paul (West Scotland) (Lab)  
 Regan, Ash (Edinburgh Eastern) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Slater, Lorna (Lothian) (Green)  
 Smyth, Colin (South Scotland) (Lab)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Collette (East Kilbride) (SNP)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sweeney, Paul (Glasgow) (Lab)  
 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)  
 Villalba, Mercedes (North East Scotland) (Lab)  
 Whitfield, Martin (South Scotland) (Lab)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

**The Presiding Officer:** The result of the division is: For 30, Against 89, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The second question is, that amendment S6M-07710.2, in the name of Sarah Boyack, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Choudhury, Foysol (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Marra, Michael (North East Scotland) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mochan, Carol (South Scotland) (Lab)  
 O'Kane, Paul (West Scotland) (Lab)  
 Rennie, Willie (North East Fife) (LD)



Sarwar, Anas (Glasgow) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Sweeney, Paul (Glasgow) (Lab)  
 Villalba, Mercedes (North East Scotland) (Lab)  
 Whitfield, Martin (South Scotland) (Lab)

### Against

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Balfour, Jeremy (Lothian) (Con)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Briggs, Miles (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Maggie (North East Scotland) (Green)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dowey, Sharon (South Scotland) (Con)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 Findlay, Russell (West Scotland) (Con)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Greene, Jamie (West Scotland) (Con)  
 Greer, Ross (West Scotland) (Green)  
 Gulhane, Sandesh (Glasgow) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hoy, Craig (South Scotland) (Con)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lumsden, Douglas (North East Scotland) (Con)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Gillian (Central Scotland) (Green)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)

Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 Regan, Ash (Edinburgh Eastern) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Simpson, Graham (Central Scotland) (Con)  
 Slater, Lorna (Lothian) (Green)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Collette (East Kilbride) (SNP)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thomson, Michelle (Falkirk East) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)  
 Whittle, Brian (South Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 24, Against 96, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The third question is, that motion S6M-07710, in the name of Richard Lochhead, on Brexit and workers' rights three years on, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

The vote is closed.

**The Cabinet Secretary for Rural Affairs and Islands (Mairi Gougeon):** On a point of order, Presiding Officer. My app—[Inaudible.]—I would have voted yes.

**The Presiding Officer:** Thank you. We will ensure that that is recorded.

### For

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)

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)  
 Choudhury, Foyso (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Gillian (Central Scotland) (Green)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Marra, Michael (North East Scotland) (Lab)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNeill, Pauline (Glasgow) (Lab)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Mochan, Carol (South Scotland) (Lab)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 O'Kane, Paul (West Scotland) (Lab)  
 Regan, Ash (Edinburgh Eastern) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Slater, Lorna (Lothian) (Green)  
 Smyth, Colin (South Scotland) (Lab)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Collette (East Kilbride) (SNP)

Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sweeney, Paul (Glasgow) (Lab)  
 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)  
 Villalba, Mercedes (North East Scotland) (Lab)  
 Whitfield, Martin (South Scotland) (Lab)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

#### Against

Balfour, Jeremy (Lothian) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Dowey, Sharon (South Scotland) (Con)  
 Findlay, Russell (West Scotland) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Gulhane, Sandesh (Glasgow) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Hoy, Craig (South Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Lumsden, Douglas (North East Scotland) (Con)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whittle, Brian (South Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 90, Against 30, Abstentions 0.

#### *Motion agreed to,*

That the Parliament acknowledges that, post-Brexit, the UK Government's Retained EU Law Bill poses a significant risk to workers' rights; further acknowledges that this is further compounded by anti-trade union legislation, such as the Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2022, and the new Strikes (Minimum Service Levels) Bill; agrees that a progressive approach to industrial relations along with greater, not fewer, protections for workers is at the heart of a fairer and stronger economy; recognises trade unions as key social partners in delivering economic and social aspiration, and as vital for ensuring that the voices of workers are heard; calls on the UK Government not to erode the hard-won rights of workers, and confirms it is committed to continuing to work in partnership as it responds to the current crisis posed by UK Government legislation post-Brexit.

**The Presiding Officer:** The final question is, that motion S6M-07736, on a committee substitute, be agreed to.

*Motion agreed to,*

That the Parliament agrees that Paul Sweeney be appointed to replace Rhoda Grant as the Scottish Labour Party substitute on the Citizen Participation and Public Petitions Committee.

**Youth Vaping**

**The Deputy Presiding Officer (Annabelle Ewing):** The final item of business is a members' business debate on motion S6M-07290, in the name of Siobhian Brown, on concern regarding youth vaping. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament notes reports of concern regarding vaping and a surge in young people using e-cigarettes; believes that vaping products are not for children, young people or non-smokers and are useful only as a potential route towards stopping smoking; understands from reports that there is potentially strong evidence that e-cigarettes, which can be bright and colourful and come in thousands of e-liquid flavours, can increase attractiveness to children and young people; further understands that the long-term risks of vaping cannot yet be definitively confirmed by research studies; considers that these products are not harmless and are a risk to the long-term health of young people, and notes the view that it is important to highlight this for forthcoming generations in Ayr and across the country.

17:33

**Siobhian Brown (Ayr) (SNP):** I thank everybody who has supported the motion and those who are taking part in the debate. I am really looking forward to all contributions.

I lodged the motion for a members' business debate as a mother and as an elected representative with a genuine, deep concern for our children who are vaping. I believe that, as elected representatives, we have a moral duty to protect constituents where we can, and that the vaping of our children and young people is among the biggest health risks that our youth currently face.

In the past decade or so, vaping has grown significantly as an alternative option to smoking traditional cigarettes. There is a mindset that vaping or smoking electronic cigarettes is safer. We know that it is cheaper. Do not get me wrong: if vaping is a pathway for somebody to give up smoking, that is great, and I fully support that. My issue relates to our children who have never smoked and are taking up vaping as it is deemed to be safer than cigarettes. In my humble opinion, the marketing and advertising of vaping products is targeted at that generation.

Eighteen months ago, there were chocolate-coated nuts and snacks at the till at my local supermarket. Now there are colourful flavoured vapes. In another local supermarket, a huge display of colourful flavoured vapes has just appeared in the health aisle. There are vapes at the tills in pound shops. They are advertised everywhere.

A packet of 20 cigarettes is currently around £12. I can get a vape for £4. That is 600 puffs, which could be the equivalent of 45 cigarettes. Those vapes come in a wide selection of colours and flavours. I have been told that some teenagers co-ordinate their outfits with the colours of vapes. There are thousands of flavours online—watermelon, sweet cherry, banana ice, cherry cola and blueberry are just a few. There are too many flavours to name in this debate. If we had cigarettes with those flavours rather than with a tobacco taste 50 years ago, how popular would they be? We know now in hindsight that those cigarettes still hooked previous generations and caused harmful damage.

In the age of the internet, we have the likes of TikTok influencers showcasing their vape collections and teaching young viewers how to do their best vaping tricks. They make it a hobby and something fun. If anybody doubts that and has access to TikTok, they should do a search on “my first vape”.

Despite it being illegal to sell the devices to under-18s, research indicates a steep rise in underage vaping over the past five years. According to ASH Scotland, the proportion of 16 to 18-year-olds who say that they use e-cigarettes has doubled in the past 12 months alone. A new survey, which was conducted by Opinion Matters and was published by Asthma + Lung UK Scotland yesterday, shows that, in 1,000 responses, 85 per cent were concerned about young people vaping, 83 per cent were concerned about the use of vaping products by children and young people in schools, and 82 per cent were concerned about the marketing and promotion of vaping products to children and young people.

There have been claims that there is no evidence of young people taking up vaping, but we all have eyes, and we all see it. Ask the teachers and the kids. They will say exactly how many kids are vaping.

At the beginning of 2022, a freedom of information request by *The Courier* found that primary 3 children were caught bringing vapes into schools in Fife and Dundee. That is really worrying. I have also heard of primary school children finding used vapes on the ground and picking them up to see how many puffs are left.

Vaping is fairly new, and we do not have an analysis of its long-term impact on lungs. Those are adult lungs—we definitely do not have any analysis of its impact on developing young lungs. The World Health Organization believes that vaping devices are harmful to health and must be regulated. It has stated:

“the evidence is clear that the aerosols of the majority of”  
vape products

“contain toxic chemicals, including nicotine and substances that can cause cancer.”

It has stated that their use is

“associated with increased risk of cardiovascular diseases and lung disorders”.

An article in *The BMJ* stated that children with asthma who were exposed to second-hand vapour at home have a 30 per cent increased risk of an asthma attack. The researchers also pointed out that lung disease and, in the worst-case scenario, deaths have been reported in relation to vaping.

Vapes are not harmless. Behind the colours and the delicious flavours, there is nicotine. As we know, that is the addictive product. The issue is not only the damage done to the lungs of the next generation but the next generation being lured into nicotine addiction.

The problem of vaping and our youth exists not only in Scotland. It is a global concern, and we have seen countries around the world take action. Flavours in vapes’ e-liquids have been banned in Austria and Hungary. Lithuania and Finland have banned all flavours except tobacco. Denmark has banned all flavours except tobacco and menthol. Menthol-flavoured vapes are banned in Estonia, and flavours except tobacco have been banned in the Netherlands as of this month. There are also plans to ban flavours in Spain, Latvia, Slovakia and Ireland. It is interesting that China, which is the biggest global exporter of vapes, has banned flavours domestically in light of concerns about youth vaping, although it still exports flavours around the world.

I would like flavours to be banned from disposable vapes so that they are not as attractive to our younger generation. The minister is aware that I am exploring a member’s bill to pursue that. I welcome the fact that the Greens want disposable vapes to be banned, and the cabinet secretary has confirmed that there will be an environmental assessment of the impact of disposable vapes. However, serious consideration should be given to a health assessment of the impact on those in our younger generation who are vaping.

There are things that we can do to mitigate, such as banning disposable vapes or removing the flavours, but they will take time to go through the whole legislative process. We are talking about a crisis of our children’s health, and we must act now. We do not have time to waste.

There are things that the Scottish Government can do now within its legislative power. Through the Health (Tobacco, Nicotine etc and Care) (Scotland) Act 2016, ministers have powers to restrict the domestic advertising of nicotine vapour products. Vapes could be placed alongside cigarettes, with promotions, flavours, colours and designs being out of view. That is one thing that

we could do now to be proactive in protecting our kids.

As a country, we have come far in tackling smoking. We now have a moral obligation to protect our young people and not to undo all the progress that we have made. Across the chamber, regardless of our political colours, we need to come together on this really important issue and do what we can to protect future generations.

17:41

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** I am pleased to speak in this very important debate. I thank my friend and colleague Siobhian Brown for bringing it to the chamber and for her very informative speech.

We are discussing an issue that has three components. First, vapes can be beneficial to adults who are attempting to quit smoking. Anything that helps to beat a nicotine addiction must be good, although the jury is still out on whether vapes are an entirely safe way of giving up.

Secondly, there is the serious issue of the harm that disposable vapes are doing to our parks, rivers and beaches. It has been estimated that, every week across the United Kingdom, a staggering 1.3 million disposable vapes pollute our land with single-use plastic and lithium batteries—which, incidentally, are very hazardous to children and pets. I know that my Green colleagues in the Parliament are running a very effective campaign against those along with the *Daily Record* campaign, and that the Scottish Government is very supportive of that.

The third component, which is the subject of the debate, is the one that I want to focus on: the harmful effects of vaping on our young people. We know that, in recent years, there has been an alarming rise in the number of children who are taking up the habit, as Siobhian Brown expertly articulated. Crucially, vapes are not recommended for non-smokers, and they cannot be sold to people who are under 18, but that has been cynically undermined by an insidious and aggressive marketing campaign. As Siobhian Brown said, there is an extensive range of sweet, fruit-flavoured vapes in bright, so-called “cool” packaging that is designed to get youngsters hooked. Does that remind members of anything? Alcopops perhaps?

Children as young as seven have been found with vapes at school. Doctors have warned of the long-term damage to developing lungs. There is also evidence that second-hand vaping increases the risk of bronchial damage in young people.

In researching for the debate, I was shocked to discover low-priced hoodies, online backpacks, watches and pens that are designed to help youths to vape undetected by parents or teachers. Those are the so-called “cool” products that are clearly targeted at young people. What on earth is going on? Tobacco companies are targeting youngsters to buy products that harm them by producing merchandise to entice them. I do not know about other members, but I think that parents these days have enough to worry about regarding the protection of their children without global companies weighing in to make money.

We know that more and more countries throughout the world are banning youth-targeted vapes—Siobhian Brown listed those. Vapes or e-cigarettes are devices that allow people to inhale nicotine in a vapour rather than smoke. E-cigarettes do not burn tobacco and they do not produce tar or carbon monoxide, which are two of the most damaging elements in tobacco smoke. However, a lot of work has been done globally to try to prevent people—particularly young people—from starting to smoke. The Scottish Government’s smoking ban has been particularly effective in that regard.

What can we do about the issue? Asthma + Lung UK Scotland and other organisations have called on the Government to restrict in-store displays, advertising and sponsorship among other measures. Who could argue with that? Despite Scotland’s restricted powers over consumer law, there are measures that we can take. I agree with Siobhian Brown that we should take them immediately. We should take them before another generation gets hooked on yet another drug.

The evidence that vapes are harmful to the young is growing every day. I suspect that, when the full effects of vapes are known, it may well be too late for too many young people.

17:45

**Alexander Stewart (Mid Scotland and Fife) (Con):** I am pleased to be able to contribute, and I thank Siobhian Brown for bringing this important debate to the chamber. As Asthma + Lung UK Scotland’s parliamentary smoking cessation champion and a co-convenor of the cross-party group on lung health, this subject is very close to my heart. Through the CPG, I have worked with Asthma + Lung UK’s breathe easy support group in Clackmannanshire in my region. Working with those groups, as well as with patients and health professionals on the cross-party group, gives immense insight into the harm that comes from smoking. We also understand the sheer magnitude of the ticking time bomb that we have on our hands with vaping.

The issue is Scotland's potential next disaster. Scotland is seeing by default, arguably, a fast-evolving young group of individuals who are taking on vaping as a result of clever but cynical marketing. A recent survey by Asthma + Lung UK shows that there have been many reports of children of primary school age being caught using vaping products, with some as young as six or seven. In September 2022, Dr Jonathan Coutts, a consultant neonatal and respiratory paediatrician, talked to our cross-party group on lung health about the potential effects and about bronchitis symptoms in young people as a result of exposure to second-hand vaping.

Although the sale and purchase of nicotine vapour products to and by under-18s is banned in Scotland, the products are typically still finding their way into the hands of ever-younger individuals and users. Rather sadly, the evidence will be borne out through the passage of time, but we already know that the products are not risk free.

Our lungs were only ever designed to intake oxygen from the air that we breathe. The flavours are passed by the food industry, but they will harm young people and individuals for generations to come. Why do we allow young users to deal with such difficulties and harmful chemicals? We have yet to decide and understand the full possibilities of where this will take us. Vaping is simply a marketing tool. As has been discussed, it is being used like an alcopop, with bright colours and attractive sweet flavours.

**Emma Harper (South Scotland) (SNP):** The member mentioned flavours that are approved for food but, just because something is approved for food does not mean that it is okay to go into people's lungs. Is that correct?

**Alexander Stewart:** I completely concur with that. As I said, they are not there for that specific use or to be ingested in that way; they are there for the food impact.

I mentioned the attractive sweet flavours. Kids have to deal with peer pressure and people saying, "Go on—just have a try." We know that that happens regularly. As ASH Scotland has talked about in the past, vaping among young people is now becoming a real danger. It talks about marketing and the use of significant measures to ensure that we do not have that. Vaping is being normalised and youngsters are seeing that it is okay, but it certainly is not okay. Young developing lungs and brains are especially vulnerable to the harms that could come from vaping, so it is vital that we challenge that marketing.

Vaping is also a huge problem for the environment. Last year on the BBC, we heard

about the batteries, plastics, metals and stainless steel that are involved. The pandemic gave us the opportunity to ensure that there was a big noise about recycling and plastics.

In conclusion, it is now time to regroup, to put a spotlight on the issue and to make collective efforts to deal with the marketing issues before it is too late. Certainly, before we get to another health or environmental catastrophe, we need to take the issue seriously.

17:50

**Clare Adamson (Motherwell and Wishaw) (SNP):** I thank Siobhian Brown for securing the debate, which is on an issue of increasing urgency. According to the BBC Radio 4 programme "All Consuming", the global market for vapes has grown exponentially over the past decade. In the United Kingdom, there are now about 4.5 million regular vapers, served by nearly 3,000 specialist shops and stores and a growing number of online retailers, which I will raise specific concerns about later.

We all share concerns over the increasingly aggressive marketing strategies that are being deployed by vaping companies. As the motion makes clear, many of the products are transparently targeted towards younger people and—make no mistake—that means children at primary school, too.

Research has shown that the use of nicotine at a young age has various negative impacts on the development of the brain. A Danish study commissioned by the Council on Health and Disease Prevention notes that the number of children and young people who consume smokeless nicotine products has increased considerably in the past five to 10 years. Today, children and young people are exposed to a growing selection of nicotine products, including e-cigarettes, pouches, snuff and chewing tobacco among others.

I have been engaged with trading standards officers locally and nationally over this issue, and they have presented to the cross-party group on accident prevention and safety awareness. The problems posed by marketing techniques are frequently of concern. In contrast to tobacco, which cannot be openly displayed and is now packed in standardised brown packaging, nicotine vaping products are openly displayed, are usually cheaper and are supplied in a variety of colours and flavours that are appealing to young people.

From a North Lanarkshire Council perspective, according to trading standards officers, they have a steady flow of complaints throughout the year alleging the sale of vapes to persons under the age of 18. The trend seems to be more about

vapes as opposed to attempted tobacco purchases.

The Society of Chief Officers of Trading Standards in Scotland—SCOTSS—has pointed to the increasing complexity of the regulatory landscape. When vaping products started to emerge, it was hoped that they would be used exclusively as an effective tool for helping people to quit smoking, but there is a demonstrable shift to marketing strategies that are designed to target young people and those who are non-smokers. Through its research, SCOTSS has received complaints from parents of children as young as 13. Slick promotions, eye-catching displays and the greater availability compared to traditional tobacco products all lead to a risk of the indoctrination of a generation of young vapers.

That is happening before our eyes but, to combat it, we have a confused regulatory landscape that is uncertain of where these new products sit when it comes to device safety, batteries, environmental considerations, age restrictions and advertising and marketing.

On online availability, trading standards officers frequently test products that have illegal substances in them or more nicotine than is currently allowed in the UK. Buying those products is a very dangerous practice.

On the environment, these disposable devices should not be put in household waste or in a recycling bin. They have lithium-ion batteries, so they should be returned to the retailer or disposed of at a local centre. The fact that they are so prevalent in our environment and are just being discarded by people is a real concern.

I again thank Siobhian Brown for her work in this area. The landscape has shifted. We face the same fight but against something in a flashier colour and with a sweeter taste. Nonetheless, we are behind in this race, and we need to catch up.

17:54

**Paul Sweeney (Glasgow) (Lab):** I congratulate the member for Ayr on securing this members' business debate, which ensures that this topic is given the prominence that it deserves in this chamber. I was pleased to sign her motion. She is not alone in noticing the huge rise in the number of young people who are vaping, which should be a cause for concern for every one of us.

The rise in the number of young people using disposable vapes is clearly an issue, and we are not alone in thinking that it is. Research by Asthma + Lung UK Scotland shows that 83 per cent of Scots are concerned about the use of vaping products in schools and that 82 per cent are concerned about the marketing of such products.

There is an obligation on us to respond to those concerns. Although there remains some dubiety about the long-term health risks, I believe that it would be foolish to assume anything other than that vapes are, ultimately, bad for young people and for the wider public. That is the basis on which we, as legislators, should determine our public health response.

I agree with the calls for increased regulation of such products, particularly disposable vapes, given the environmental damage that they cause, but I remain unconvinced by the calls for outright prohibition and a blanket ban. The reason for that is quite simple: I do not think that outright prohibition works in reducing the harm of any so-called vice in society. As we have seen throughout history, attempts to ban products such as alcohol or drugs often lead to a black market—unregulated trade that is dominated by organised crime—which often makes the problem worse.

That said, however, I believe that we have to be more diligent in the regulation of the industry. It seems perverse to me that we put cigarettes behind shutters and regulate packaging to make cigarettes less attractive but we allow vapes to be displayed prominently in shop windows in shiny, colourful packages, which are clearly designed to attract younger people to try them out. Indeed, just yesterday, a constituent sent me an email about a store in Glasgow that advertises vapes right next to slushies and desserts of the same flavour. That is clearly and cynically designed to manipulate young people's consumer habits.

I do not know whether anyone is a fan of "Mad Men" but, in the pilot episode, which is set in the 1960s, Lucky Strike is concerned about *Reader's Digest* first reporting the risk of cancer from cigarettes, so it decides to market them with the slogan "It's toasted" to make them sound more benign and less potentially hazardous for consumers. That shows that a deceptive form of marketing that tries to seduce people into thinking that products are benign—whether it is cigarettes or, potentially, vapes—has long been a characteristic of the tobacco industry and similar vendors.

If the health risks are deemed to be similar, the regulation and policy response must surely be equally stringent. I would like the Government to explore that when considering a response to this growing problem. When dealing with increased regulation, we also need to consider the sanctions for those who are caught selling such products to under-18s. Anecdotally, it seems that young people under the age of 18 find getting hold of vaping products easier than getting hold of cigarettes, and we have to look at why that is the case. Clearly, the regulations that the Government introduced in April 2017 are proving to be

ineffective in that regard. I am in favour of tougher sanctions on shopkeepers to ensure that they are suitably deterred from illegally selling such products.

In addition to the potential health risks, there are environmental concerns about the prevalence of disposable vapes. Those concerns have merit, so Labour supports, in principle, the Government's position on a ban on disposable vape products. I hope that further study will show that that would result in a reduction in the levels of youth vaping.

As I said earlier, I am generally sceptical of outright bans, but it would be worth while to carry out an exercise to see whether we can reduce harm. At the very least, we need to make such products look significantly less attractive to young people, and we need to deal with the environmental impact of their use. If a ban is not appropriate, we should consider whether a return scheme of some description could be rapidly introduced to minimise the impact of their use on the environment.

We clearly have a problem on our hands, and the policy response to it will need to be multifaceted and measured. Taking a sledgehammer to crack a nut will not solve the issue. This is a perfect example of the need for us, as legislators, to know our limits. In the long term, although we might not want to introduce an outright ban, I hope that regulations of the kind that we have discussed today might exert a more positive influence on consumer behaviour in order to reduce public health risks and the environmental harms that we see today.

17:58

**Kenneth Gibson (Cunninghame North) (SNP):** I, too, congratulate my colleague Siobhian Brown on securing debating time on this important matter.

With sweet flavours, colourful packaging and low prices, it is no wonder that vapes are considered to be a pocket money-friendly product by teenagers—a cohort that vape manufacturers are obviously keen to attract. A 2022 report from Action on Smoking and Health Scotland revealed that 16 per cent of 11 to 17-year-olds have tried vaping and that, of those, 40 per cent had never smoked. Although vape usage is considered to be much less harmful than smoking, the long-term effects are still unknown, and we have already heard about the severe impact on the environment.

Some vapes include toxic chemicals that have not been safely tested for inhalation, so health experts have serious concerns about how their use could damage health over time. Regular use can impact respiratory health, with young people

who use vapes being twice as likely to suffer from a chronic cough as non-users are. Vaping can also reduce lung function due to disturbance of gas exchange and tissue inflammation. Popular disposable vapes often contain the maximum permitted nicotine strength of 20 milligrams per millilitre. As we heard from Siobhian Brown, that is the equivalent of about 45 cigarettes. Young people who use vapes are at much higher risk of nicotine addiction and are three times more likely to start smoking tobacco compared with those who do not vape. Smoking is the direct cause of 16 per cent of all deaths in Scotland.

Regular nicotine use can have detrimental health effects, as teenagers are more vulnerable to dependency than adults are. Chronic nicotine exposure can impact brain development, contribute to cognitive and attention deficit conditions and worsen users' mental health. Although the NHS recommends that adult smokers switch to vaping in order to quit, health experts are concerned that vapes are a gateway to young people starting to smoke.

ASH has highlighted that 55.8 per cent of children are aware of single-use vape promotion on social media, primarily on TikTok and Instagram. That encourages young people to try vaping, rather than it being a means for older smokers to quit smoking. Across the UK, disposable vape sales grew by an astonishing 883 per cent between May 2021 and May 2022. ASH puts that increase down to those harmful promotions.

Although it is illegal to sell vapes to under-18s, social media carries posts of teenagers showing the newest vapes and discussing flavours. More than 500 flavours are available, including pink lemonade, blueberry and watermelon. Stores commonly promote so-called "must try" flavours, and online forums offer recommendations, with no age restrictions in place to access content. When menthol cigarettes were banned across Europe in 2020, 65.7 per cent of young adult menthol smokers said that they would quit smoking. That highlights that there is a strong link between attractive flavours and teenage smoking. Therefore, banning flavoured vapes could significantly reduce teen usage. Colourful packaging entices children and young people to purchase the product, with 82 per cent of Scots believing that such marketing is aimed at young people.

Research suggests that banning cigarette displays in shops has reduced the likelihood of young people purchasing cigarettes by 15 per cent. Given the appeal created by vape packaging, it is essential that we extend the legislation to cover vaping products.



The most popular single-use vapes cost about £5 and can often be found on special offer. Smoking cigarettes costs more than two and a half times as much. That comparison increases vape affordability for children and young people.

I welcome Waitrose's recent decision to ban the sale of single-use vaping products. Despite ensuring that all staff strictly follow the challenge 25 policy when selling all age-restricted products, Waitrose recognises the risk that such products pose to young people, especially those who have not previously smoked. I urge other supermarkets to recognise the impact that the sale of such products is having on teen vapers.

It is important to highlight the concerns that have been voiced today in relation to the unnecessary uptake of vaping by young people. Despite the concerns about youth vaping, it is essential that NHS Scotland continues to encourage smokers who are planning to quit to switch to vapes. Although the long-term effects of vaping are unknown, stopping smoking will bring immediate health benefits, and vapes have been proven to be an effective method of reducing tobacco dependency for smokers.

Although vapes might be safer for adults than cigarettes, children and young people should be discouraged from using them. Following the success of legislation that was implemented to reduce smoking in Scotland, I urge the Scottish Government to extend the legislation to discourage children and young people from vaping. It is essential that we prohibit vape displays in shops and ban the myriad flavours on offer, given the number of youths who are taking up vaping, the unknown health risks that vaping poses and the irresponsible marketing of the products in shops and online.

Once again, I thank Siobhian Brown for bringing the debate to the chamber.

18:03

**Gillian Mackay (Central Scotland) (Green):** I congratulate Siobhian Brown on securing time for this really important debate, and I thank all those who have been campaigning on the issue, particularly Less Waste Laura, ASH Scotland and Asthma + Lung UK.

The explosion in the use and popularity of single-use vapes, especially among young people, is multifaceted and difficult to tackle. I was pleased that, in response to my question, the Scottish Government committed to exploring a ban on single-use vapes. I share the concerns that Siobhian Brown and others have raised around such age-restricted products being marketed and sold to children. As the Asthma + Lung UK lung health champion for young people, I believe that

we need to involve young people in such conversations, and I hope that, in the coming months, I will be able to work with the Scottish Youth Parliament and others to get their views.

Dundee City Council recently reported that 62 per cent of sites visited sold vapes to a test purchaser who was under 18. That is a real issue for councils, but I should stress that it is not restricted to Dundee. Those who repeatedly flout the rules could be banned from selling vapes and tobacco for up to 24 months, and I know that some of my councillors have raised the issue of how to deal with the large number of retailers selling vapes and the compliance issues that that causes.

In addition, if any of us wanted to, right now, we could order—via Just Eat, Uber Eats or other, similar platforms—vapes directly to this building. The people who deliver the product are supposed to check age on delivery, but how many are doing so? Although test purchasing from stores is a well-trodden path, it is an even more difficult area for councils to gauge.

The flavours of vapes that are available is an issue of concern to many parents, who believe that they are being targeted at children. We are hearing anecdotally that large numbers of children and young people are taking up vaping who probably would not have smoked. That is partly due to the appeal of the flavours, the disposable nature of vapes and the ease of getting them. We must ensure that their advertising to children is restricted.

Some of the ways in which children may be exposed to vapes, as with some issues relating to alcohol, are a reserved matter, but I hope that the UK Government will take action on the issue and ensure that children do not have age-restricted products advertised to them. I believe that the ban on such advertising should extend to stores, and I am pleased that so many members across the chamber believe that, too.

Just before Christmas, I wrote to some major retailers to ask them to treat vaping products in the same way as cigarettes are treated. I was disappointed by the responses that I received; indeed, sometimes, I did not receive a response at all. Many of those retailers were very proud when they removed sweets and other less healthy products from till lines, which they did mainly to improve the health of the population. I do not understand why that does not extend to the prominent placement of other health-harming products in stores, some of which are not only in prominent places but could be reached and picked up by children. I hope that, in the coming weeks, we will see a change of heart by the big supermarkets and other major chain retailers, and that they will put such products behind cover.

The strength of some vapes, as we have heard, is astounding, with some single-use vapes containing as much nicotine as 40 cigarettes. People who vape are being exposed to far higher levels of nicotine than they may realise.

The environmental issues are important, too. As I am sure that many in the chamber are aware, the number of vapes that litter our streets and parks is growing. Siobhian Brown highlighted that some children are picking them up to see what they have left in them, which is undoubtedly a public health concern. We have heard about how difficult they are to dispose of, let alone recycle. The lithium batteries in them present a risk of explosion if disposed of incorrectly. As Clare Adamson said, retailers who sell such products should be taking them back. We need to make people more aware of the appropriate ways to dispose of them and make sure that they are banned in the long term.

I again congratulate Siobhian Brown on securing time to debate the issue, and I hope that members across the chamber can work together to tackle it.

18:07

**Stephanie Callaghan (Uddingston and Bellshill) (SNP):** I thank Siobhian Brown for bringing the debate to the chamber and for all the work that she has been doing on the issue for quite some time.

There have been some great speeches that have covered all the main points—sales and advertising, flavours, recent reports and statistics, the environmental impacts and the health impacts—so I will keep my contribution quite short. However, I wanted to speak in the debate because—I admit it—I am a vaper. Quite a lot of people know that already; I have vaped for several years. My mum is always on at me to stop, and I hope that, one day, I will, but not right now.

After smoking cigarettes for 30-plus years, I am massively relieved that I now vape instead of smoking. Giving up the fags is probably the best thing that I have ever done for myself. I used to lie awake at night worrying. I did not want to die and not see my children grow up and not meet my grandkids. Cigarettes kill, as I think we all know. My dad died of lung cancer in 2020. His dad—my granda—was also a smoker and he died of lung cancer relatively young. My mum was a smoker, but she stopped decades ago. She has chronic obstructive pulmonary disease, which is likely to have been caused by the fags.

For many people, vaping is a really valuable route to stopping smoking. I am not sure that I could ever have stopped otherwise, and I am certainly not alone in that. However, although quitting smoking is one of the best things that I

have ever done, and vaping helped me to get there, as a parent, I am seriously worried about the sharp rise in the number of young people who regularly use vapes.

The main point that I want to labour tonight is that although vaping is a valuable tool in stopping smoking, marketing recreational single-use vapes to young people who have never smoked is an entirely different issue. We must not conflate the two. Evidence shows that vapes are less harmful than tobacco, but we do not yet know what long-term health harms are caused by breathing vape liquids into your lungs. Frankly, it is high time that we got rid of the rainbow displays at vape bars, where every flavour under the sun is available. I fully support the suggestions that have been made by other members.

Is vaping less dangerous than smoking? The evidence tells us that it is. How safe or harmful is vaping? In truth, we really do not know, but it is common sense that breathing such substances into your lungs is not a good thing. That is why I hope that I will stop vaping at some point. Less bad than smoking does not equal good, which is why I believe that urgent action is needed to protect our young people and avoid a new generation of nicotine addicts.

I will finish with a question: who benefits from creating a new generation of nicotine addicts? I think that we all know what the answer is.

**The Deputy Presiding Officer:** Before I call the next speaker, I advise members that, due to the high number of members who wish to speak in the debate, I am minded to accept a motion without notice, under rule 8.14.3, to extend the debate by up to 30 minutes. I invite Siobhian Brown to move such a motion.

*Motion moved,*

That, under Rule 8.14.3, the debate be extended by up to 30 minutes.—[*Siobhian Brown*]

*Motion agreed to.*

18:11

**Brian Whittle (South Scotland) (Con):** I thank Siobhian Brown for bringing the debate to the chamber. Given the length of the debate and the number of people who want to speak in it, it is clear that we are debating an issue of real concern, and it is one that I have spoken about before.

It does not seem that long ago that, in meetings in my office, vaping companies were lobbying me to support them. It was a great surprise to them that I was very strongly against universal access. They thought that I would support them because vapes were being marketed as a tool to quit smoking, which is the one area in which I would

support their use. I was very interested to hear Stephanie Callaghan talk about her experiences. I would support the use of vaping as a medical intervention that has been recommended by medical professionals.

I well remember asking one particular vaping company, “Who owns the company?” Of course, I knew that the owner was a tobacco company, so the question that I put was, “Are you really suggesting that tobacco companies are producing these products to help their customers to stop using their products and, therefore, put themselves out of business?” By that logic, once they had helped every smoker to quit, there would be no need for any of their products. If vapes are solely for smoking cessation, why are there so many flavours and additives to draw in potential users? I informed the company that I was not that gullible.

Everything that I was concerned about back then has manifested itself and then some. I have a daughter who is in secondary school, and I am shocked at the level of vaping activity among pupils. There seems to be anecdotal evidence that as much as half the student population has tried or is regularly using vaping products. Moreover, there is a whole microindustry around the buying and selling of such products by students in schools—evidence of that is the quantity of products that is confiscated daily by the campus policeman. More significantly, the number of students who smoke tobacco or marijuana or even worse remains high and is climbing.

Vaping is a door to addiction and a step towards using those more harmful products, rather than its marketed use for smoking cessation. Siobhian Brown’s motion makes the very important point that vaping is not without harm, and that harm is yet to be properly quantified. My fear is that we are simply storing up a health crisis for the next generation. Inhaling foreign particles into our lungs cannot be anything but harmful on some level. That is blindingly obvious.

We need to regulate the use of vapes much more effectively and keep them out of the hands of schoolchildren. The marketing budgets of tobacco firms are being used to entice entirely new users into using vapes and then on to even more harmful products. For those who use them, their use is a habit as well as a social statement. Peer pressure is a key driver and, after all, it is not really smoking, is it? In addition, there are all those wonderful flavours, including bubble-gum flavour, for goodness sake—yes, that is really aimed at adults who want to quit. It is too easy for pupils to be drawn in and then make the step to the next level of substance abuse.

I agree that there is a place for vapes in the drive to help with smoking cessation. However,

they should need to be prescribed by a health professional; at the very least, we should make the penalties for selling to underage pupils so high that it becomes not worth the risk. We need to take the issue extremely seriously before we have another health crisis on our hands.

I again thank Siobhian Brown for giving us the opportunity to raise the issue in the strongest possible way and to urge our Governments to take the appropriate urgent action to get such products out of the hands of our children.

18:15

**Pauline McNeill (Glasgow) (Lab):** I thank Siobhian Brown for an excellent speech. It is the speech that I wanted to hear, because I did not disagree with a single word of it or any of the excellent speeches thereafter.

Concern for children is my concern too. Like Brian Whittle, I have been worried about the risk of vaping among children and young teenagers for some time, not because I know a great deal about it but because anecdotal evidence has suggested to me that it is much wider spread than we thought, and I have lodged a few questions to demonstrate my interest. I am therefore delighted to be joining the debate this evening.

It has taken decades of public health campaigns, which I know that Kenneth Gibson has had a key part in over the years, to reduce the number of young people in Scotland smoking. Just as improved behaviours were becoming established, vapes have come along and seem to be capturing a new generation of users. The World Health Organization suggests that children and adolescents who start vaping are three times more likely to take up smoking. There is limited data. I think that Siobhian Brown has already mentioned ASH Scotland’s research showing that 17 per cent of 13-years-olds and 35 per cent of 15-year-olds have used a vape at some point, but I agree with Paul Sweeney, Brian Whittle and others that it is much wider than that.

Current evidence suggests that vaping is less harmful to a person’s health than smoking, but recent studies indicate these are still health-harming products that damage the heart and lungs as well as causing gum disease, tooth decay and headaches.

Stephanie Callaghan makes the point very well—and it is my point too—that vaping is an important route to stop smoking, but the focus of this debate is first of all the safety of children. Increasing the likelihood of users going on to become smokers is why we are all very concerned. As we have heard, some of these products contain nicotine, which is addictive. Research has shown that nicotine can have a

detrimental impact on brain development and increase a young person's risk of future substance abuse.

A survey of 1,000 adults that was commissioned by Asthma + Lung UK Scotland and conducted by Opinion Matters revealed that more than three quarters of people in Scotland are concerned about the use of vapes in schools, so it is a real issue. Earlier this month, the *Daily Record* launched a new campaign to ban disposable devices amid fears that they have turned our streets into a plastic dumping ground, which was also mentioned by other members. There seems to be a consensus here that we need to look at banning them for environmental reasons too.

I was involved in the ban on smoking in public places during the early sessions of Parliament, and we have seen the impact that that has had. What was the point of that world-leading legislation if coming behind it is a product that is aimed at young people with one thing in mind, which is to create a market of people who will then go on to smoke after they have given up vapes? I am surmising that, but I think that we all think that it is the case. That is why we must do all that we can, notwithstanding the point that Paul Sweeney also makes well, which is that we must think about what approach we take with young people. I guess that the minister will address this. If we say that it is banned, young people might want to rebel against that, so we need to think carefully how we do this. We need to explain to young people, "I know that all your friends are doing it and it seems to be a thing to do at school, but really it is in your long-term health interests not to do so."

18:19

**Emma Harper (South Scotland) (SNP):** I congratulate my colleague Siobhian Brown on securing the debate. I know that she is doing much work on youth vaping. She laid out perfectly the issues around youth vaping, as Pauline McNeill described. I thank Asthma + Lung UK Scotland and ASH Scotland for their briefings ahead of the debate and for their work to improve lung health or respiratory health in Scotland.

This debate is about youth vaping. I am the co-convenor of the lung health cross-party group and a registered nurse, so I am interested in the impact of vaping on lung health, especially given the very serious health concerns that have been expressed by medical experts and echoed around the chamber this evening.

I have amended and scored out loads of my speech because colleagues have covered the information already, but it is worth repeating that nicotine is the primary addictive component of tobacco cigarettes. Vapes do not burn tobacco

and do not produce tar or carbon monoxide, which are two of the most damaging elements to health in tobacco smoke, but we know that e-cigarette use can have negative effects on respiratory health. One of my concerns is the nicotine in e-cigarettes and vapes. Research has shown that young people using e-cigarettes are twice as likely to suffer from a chronic cough than non-users.

**Brian Whittle:** I know that there has not been enough research into it, but is it not logical that inhaling foreign bodies into your lungs has to be harmful?

**Emma Harper:** There is just a one-word answer to that and that is yes. We should absolutely be doing research into and paying attention to substances that people are taking into lungs, which may be meant for food colouring, as came up earlier.

Kenneth Gibson spoke about the disturbance of gas exchange in the lungs and lung inflammation, but it is worth repeating that. Lung damage due to vaping is referred to as e-cigarette or vaping associated lung injury—EVALI. A public health investigation in Illinois and Wisconsin in the US found that the median age of patients suffering from EVALI was 21, but we have heard from colleagues across the chamber that younger people are vaping now.

Despite what the industry may say, nicotine can have detrimental health effects. We know that adolescents are more vulnerable to nicotine dependency than adults. Chronic nicotine exposure can impact brain development. That has been mentioned already but is worth repeating. The lung health cross-party group, which Alexander Stewart and I co-convene, had Dr Jonathan Coutts, who is a paediatric respiratory physician, present us with the evidence of his research about nicotine on child brain development. I refer members to the recording of the meeting. It is in the lung health CPG September minutes on the Parliament website. The impact on brain development that was presented shows that it can contribute to cognitive and attention deficit conditions and worsen mood disorders. That is pretty shocking. We also heard about the effects on mental health.

In addition to the health impact of vaping, particularly on young people, I am concerned about the way in which the vaping and tobacco industry is targeting young people, as others have described.

I will skip to the end of my speech and ask the Government what we can do to tighten the rules on advertising and promoting vaping products. It is a concern that these big bright colours are front and centre in our retail outlets and supermarkets.

Again, I thank Siobhian Brown for bringing the debate to the chamber and I share the concerns that have been raised by everybody about the health impacts of vaping on our young people in Scotland.

18:23

**Colin Smyth (South Scotland) (Lab):** Thank you to Siobhian Brown for lodging her motion for debate, providing a timely opportunity to discuss the phenomenal growth in vaping that has left behind both our understanding and regulation of e-cigarettes.

The great vape debate is often whether e-cigarettes are saving smokers or creating new addicts. I suspect that the answer is probably both. Lung disease remains the third largest killer in Scotland, with smoking still the biggest cause. However, smoking rates in Scotland have seen a welcome decrease from 28 per cent of adults in 2003 to 11 per cent in 2021, largely thanks to policy interventions such as the ban on smoking in public places that Pauline McNeill mentioned.

Given that vaping appears less harmful than smoking, albeit that that is not a high bar, e-cigarettes have been seen as a useful tool for those who wish to quit smoking tobacco, but it is also clear that vaping is far from risk free. As a number of members have mentioned, we do not fully understand the long-term health effects, but recent studies have suggested that e-cigarettes can impact heart and lung health, and most e-cigarettes contain nicotine, which is of course addictive. The sharp increase in the proportion of e-cigarette users who have never smoked before should concern us all.

I know that there is still limited data on the proportion of young people who are vaping. ASH Scotland found that the number of 11 to 17-year-olds who have tried vaping has risen to 15.8 per cent from 11.2 per cent in 2021. These are trends that cannot be allowed to continue largely unchecked. Even though a person has to be over 18 to purchase e-cigarettes legally, it is clear that the brightly coloured and fruit-flavoured vapes are marketed in a way to attract—in fact, ruthlessly target—young people, often on social media platforms. They are also considerably cheaper than cigarettes. According to ASH Scotland, the monthly cost of e-liquids is around £56 compared to the £250 per month that the average cigarette smoker would spend. They are also far more readily available.

It is therefore understandable that there are widespread calls for action. Asthma + Lung UK Scotland wants the Government to fully enact the remaining regulations from the Health (Tobacco, Nicotine etc and Care) (Scotland) Act 2016 to

restrict the marketing and promotion of vaping products, particularly to children and young people. I hope that that is what the Government's recent consultation on this ultimately delivers.

Along with the health concerns surrounding e-cigarettes, the toxic and single-use plastic waste that is caused by disposable vapes is also becoming a deep concern and one that I want to focus the rest of my comments on. I had the privilege of meeting the environmental campaigner Laura Young, who has led the way in seeking action to tackle the environmental impact of disposable vapes, collecting many hundreds off our streets herself. It is a blight that has crept up on us but one that is growing at a pace. According to research by Material Focus, at least 1.3 million disposables vapes are thrown away every week in the UK. That conservative estimate is two every second. It is the equivalent of 22 football pitches of plastic litter, but less than a third is recycled.

The lucrative vaping market as a whole in the UK is worth more than £1 billion a year and more than half of children today say that disposables are their preferred product. As well as targeting those young people, the industry is failing to take any responsibility for collecting and recycling its product. Ultimately, it is not realistic to think that the majority of users of disposable vapes will collect them up and take them to their nearest recycling centre. Scotland's ban on single-use plastics became fully effective in August 2022, but there is a clearly a loophole in the failure to include disposable vapes, which are largely made of plastic.

I welcome the fact that the Government has commissioned a review into the environmental impact and management of disposable vapes, which could lead to a ban on the product. If we are being honest, I do not think that we need a review to tell us that there are already alternatives out there and that disposable vapes are an unnecessary evil that could and should be banned. The Scottish Government's upcoming circular economy bill is a prime opportunity to deliver a ban. I strongly urge the Government to take that opportunity and get on with ending the sale of disposable vapes in our shops.

18:27

**The Minister for Public Health, Women's Health and Sport (Maree Todd):** I thank Siobhian Brown for lodging the motion and offer my thanks to all the members across the chamber who have taken part in discussing what we can all agree is a very important issue. I welcome the opportunity to respond on behalf of the Government.

The Scottish Government has a clear policy on vaping products: they are one of a range of

possible smoking cessation tools, but they are not a lifestyle accessory for young people or indeed adult non-smokers. I commend Stephanie Callaghan for her honest contribution and I am absolutely delighted that she has stopped smoking. It is one of the best things that you can do for your health, but I have to be clear that while vaping is one of the tools available to aid smoking cessation, we do not yet fully understand its long-term effects on our health. We need to be cautious. I very much appreciate the line that less bad than smoking does not equal good, and I will recycle it plenty.

The evidence base is growing and we are continually monitoring it. The World Health Organization has said that vaping devices are “undoubtedly harmful” to health and should be “strictly regulated”. Professor Ann McNeill, from King’s College London, led the evidence review on vaping for the UK Government and specialises in tobacco addiction. She said that vaping is

“very unlikely to be risk-free. We strongly discourage anyone who has never smoked from taking up vaping or smoking.”

I echo her view—just do not take it up.

We already have strict legislation on the sale of tobacco and vaping products in Scotland. All retailers must be registered, and sales are restricted to those aged 18 and over. However, the very fact that we are discussing this issue tonight highlights that there is work to be done to protect young people and ensure that they are not able to access these products, whether that is through purchasing themselves or being supplied them by others. Both are illegal. It is just not acceptable in modern-day Scotland, where we want to see a generation of young people grow up free from tobacco and nicotine addiction.

**Brian Whittle:** Surely what we should be looking to do here is make it as difficult as possible for our youth to get hold of these products and to punish those who supply to underage people as harshly as we possibly can.

**Maree Todd:** We are working very closely with Trading Standards Scotland to understand what key improvements could be made in Scotland to stamp out illegal sales. I also plan to raise with the minister for public health in the UK Government what we can do collectively, along with the other devolved Governments, to stop this growing trend. That includes looking to see where we can be much stronger around issues such as flavouring, which we know is a significant draw for younger people. Kenneth Gibson is right to highlight the evidence of a link between menthol flavour and smoking. I am horrified when I see and hear about the range of flavourings available and how these devices are being marketed to directly appeal to our children and young people.

Members may be aware that the Minister for Green Skills, Circular Economy and Biodiversity has commissioned an urgent review of the environmental impacts of disposable vapes. As a number of members said, as well as being a form of single-use plastic, they contain batteries and are particularly toxic to our environment. I look forward to the results of that review. A ban is one possible outcome, which I would welcome from both an environmental and a public health point of view.

Siobhian Brown and others raised a very important point about nicotine addiction. I hear the concerns about the impact of nicotine on brain health, the concerns about lung health and the link to taking up smoking, as highlighted by the World Health Organization, but all of us here need to be concerned about the way that this formulation, like smoking—I am a pharmacist, so please indulge me—is highly addictive. The drug nicotine gets very speedily and in good concentration into the bloodstream, across the blood-brain barrier to the site of action. It gives you a hit. These are uniquely addictive products and we all know that smoking tobacco is a consequence and a cause of health inequalities. Children becoming addicted to these products at a very young age means a lifetime of sales for the companies marketing them and a lifetime impact on their spending power on other issues. It is just frightening.

The long-term goal is to create a Scotland where everyone can flourish, with improved health and reduced health inequalities. Ensuring that young people are not growing up addicted to vapes and addicted to nicotine, with all the health and economic harms that that brings, is acutely important in achieving that goal.

This autumn we will publish a refreshed tobacco action plan, which will renew our commitment to achieving the 2034 target of lowering smoking rates in our communities to below 5 per cent. We want children born since 2013 to be free from tobacco, so that, when they turn 21, they will be tobacco free and will come of age in a Scotland that will remain tobacco free for generations to come. Note that we have a tobacco free target in Scotland, not a smoke free target.

**Gillian Mackay:** I thank the minister for taking an intervention. She recognised the impact that the tobacco industry has. Will she join the calls that I have made to retailers to consider putting these products behind cover where they cannot be seen by children and young people, in order to reduce that impact?

**Maree Todd:** Yes, absolutely. We are considering all these things. We have started to take action. Last year we consulted on restrictions on the advertising and promotion of vaping products. Those are aimed at reducing the

visibility of vapes to children, young people and adult non-smokers. Any action that we take will seek to build on the regulations that are already in place to restrict the marketing, promotion and sale of vaping products to under-18s. My aim is to bring forward new regulations in 2023.

We are also working with stakeholders, including ASH Scotland, Young Scot and the Children's Parliament, to help young people understand that vaping is not risk free, it is not a lifestyle accessory and it does have consequences. It is important that we hear their voices and understand, as a number of members said, how best to support them to make more informed choices.

**Brian Whittle:** I thank the minister very much for indulging me again. Should we not be organising a marketing counter strategy that takes a pride in Scotland approach, in that we are trying to be a completely smoke-free country?

**Maree Todd:** We need to consider all aspects of how to get to the crux of this problem, but we need to remember that it is a highly addictive product that is being marketed to appeal to young children during the course of their development. We need to take very stringent measures to tackle that particular risk.

It is not just a public health issue, but clearly we need to keep health at the forefront of everything we do. We need to work across Government to maximise opportunities for cross-cutting impact. That might be through action on illegal products, which obviously benefits the economy, addressing environmental concerns or improving education. By continuing to work together, learning from our recent experiences and building on our successes, I am confident that we can make lasting changes that will positively benefit the health and wellbeing of everyone in Scotland.

**The Deputy Presiding Officer:** That concludes the debate.

*Meeting closed at 18:36.*





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