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Wednesday 20 December 2023

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Scottish Parliament

Wednesday 20 December 2023

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

Portfolio Question Time

Rural Affairs, Land Reform and Islands

The Deputy Presiding Officer (Liam McArthur): Good afternoon. The first item of business is portfolio questions, and the first portfolio is rural affairs, land reform and islands. Any member who wishes to ask a supplementary question should press their request-to-speak button during the relevant question. There is a lot of interest in both portfolios, so I would appreciate brief questions and responses.

Sand Eel Fishing (Closure)

1. **Ruth Maguire (Cunninghame South) (SNP):** To ask the Scottish Government when it will report on its consultation on proposals to close fishing for sand eel in all Scottish waters. (S6O-02894)

The Minister for Energy and the Environment (Gillian Martin): The consultation on proposals to close fishing for sand eel in all Scottish waters closed on 13 October, and my officials are carefully considering all the responses that we received. Following that analysis, we will publish the consultation outcome report, which is scheduled to be published by spring 2024.

Ruth Maguire: Scotland is important globally for its large seabird colonies, which support more than 65 per cent of the British and Irish seabird population. Our seabirds, including the Manx shearwater, are under multiple man-made pressures, from predation and adverse weather conditions that may be a result of climate change to a lack of food as a result of climate change and fisheries. The RSPB described proposals to ban industrial sand eel fishing as

“the single greatest thing we can do right now to help our most threatened seabird species”.

Does the minister agree that Scotland’s wonderful seabirds, including the Manx shearwater, are a hugely important part of Scotland’s coastal ecology and that actions to protect populations in the face of current and future threats are vital?

Gillian Martin: Yes—I absolutely do. The RSPB quote that Ruth Maguire read out about closure being the biggest thing that we can do to protect our seabirds is warmly welcomed and I agree with it.

The results of the recent seabird census show that Scotland’s internationally important seabird population is suffering as a result of on-going pressures—Ruth Maguire mentioned man-made pressures that have resulted from climate change. Given the importance of the sand eel to the wider ecosystem and the subsequent benefit in aiding long-term sustainability and resilience, sustaining the sand eel population is a priority.

It is not just the Manx shearwater that benefits from that population. Iconic species such as puffins feed on sand eels, so we are prioritising the matter to help to boost the seabird population.

Edward Mountain (Highlands and Islands) (Con): I thank the minister for being clear on that. I remind the minister and members of my entry in the register of members’ interests, which states that I am a partner in a wild salmon fishery. Salmon eat sand eels, but I will talk about the damage that our seabirds have faced as a result of avian flu, which has been catastrophic. There will undoubtedly be some losses when ScotWind is up and running, so surely we must make sure that our seabirds are in the best possible condition and that there are as many as possible to offset those losses. Does the minister agree that sand eel fisheries should therefore be suspended immediately?

Gillian Martin: I thank Edward Mountain for that positive and constructive question and for his support in what we are doing about sand eel fisheries. He rightly points out that quite a lot of other factors are involved in the decline of seabirds. This summer, we had a very unseasonable bout of pernicious avian flu, which particularly affected our gannet and gull populations. We must do everything that we can, within our powers, to mitigate the effects of things such as avian flu. We cannot really control the source of that, but we can control how we respond to it.

North Sea Fish Stocks (Catch Limits and Measures)

2. **Jackie Dunbar (Aberdeen Donside) (SNP):** To ask the Scottish Government what impact the recently announced trilateral agreement on total allowable catch limits and management measures for jointly managed fish stocks in the North Sea will have on fishers in Aberdeen and the north-east of Scotland. (S6O-02895)

The Cabinet Secretary for Rural Affairs, Land Reform and Islands (Mairi Gougeon): Fishing agreements with our coastal state partners include a number of positive outcomes for Scotland, which provide key opportunities to vessels and coastal communities. The trilateral agreement includes quota increases for all six of the jointly managed North Sea stocks, and those opportunities are

worth an estimated £199 million to Scotland, which is an increase of £68 million on the previous year. That is welcome news for Scotland's fishing industry as a whole, and the benefit to fishers in the north-east from the trilateral agreement is estimated to be about £47 million, on the basis of 2022 prices.

Jackie Dunbar: I understand that there has been an agreement to set quotas for North Sea cod at levels that reflect the latest science. What scientific data and analysis are used in such determinations? What was Scotland's overall approach to the negotiations?

Mairi Gougeon: The Scottish Government fully supports the headline scientific advice and, whenever it is most appropriate, setting fishing opportunities that are consistent with the maximum sustainable yield approach. Although we used the MSY approach from the International Council for the Exploration of the Sea in a benchmark report from February, there was a significant change in the 2024 scientific advice for North Sea and west of Scotland cod. That new advice structure shows that the stocks in Scottish waters are doing well, particularly the north-western sub-stock, which spawns in the north-west North Sea and the west of Scotland.

That ultimately reflects what we know our fishers have been seeing on the ground, and it is a step change away from the previous zero total allowable catch advice for the west of Scotland. However, the scientific advice for the whole northern shelf was based on the poor state of the southern stock component, which we think is an illogical approach.

My priority ask for the annual negotiations was to secure catch limits that reflect the positive outlook for the north-western stock, including an appropriate and evidence-based allocation for the west of Scotland. I am pleased that the negotiated outcome was a 15 per cent increase, which was supported by that robust evidence.

The Deputy Presiding Officer: If I am to get both supplementaries in, I will need briefer responses.

Jamie Halcro Johnston (Highlands and Islands) (Con): The cabinet secretary will recognise that the deal was made possible because, as the United Kingdom is out of the hated common fisheries policy, that allows us to set our own total allowable catches, license foreign fishing vessels in UK waters and regulate fisheries in Scotland. Will she accept that Scotland's future is outside the CFP, with decisions being made, in consultation with our fishermen and our fishing communities, here in Scotland and in the UK, and not in Brussels, as the Scottish National Party would have it?

Mairi Gougeon: The member has failed to read the trade and co-operation agreement that his colleagues in the UK Government signed up to, which resulted in a poorer deal for our fishermen than when we were in the CFP. I strongly urge him to read that and perhaps come back and offer comments at that point.

Beatrice Wishart (Shetland Islands) (LD): The North Sea and the trilateral agreement are important to Shetland's fishing fleet, and the cabinet secretary recently committed to exploring solutions for several important fish stocks that scientists class as data deficient. How will the Scottish Government work with international partners to ensure adequate resource to ascertain the scientific advice that is so critical to sustainable fisheries management? What timeline can we expect for that?

Mairi Gougeon: I am happy to engage further with the member on that issue. The work that we undertake and our relationships with our international partners are critical. Our chief negotiator and our negotiating teams have done a fantastic job in the negotiations this year, and they work incredibly hard to foster the key relationships so that we can work together on the areas where problems are presented. I am more than happy to follow up with the member via correspondence and provide further information.

Wildlife Management and Muirburn (Scotland) Bill (Licensing Schemes)

3. John Mason (Glasgow Shettleston) (SNP): To ask the Scottish Government what proportion of the costs of the licensing schemes contained within the Wildlife Management and Muirburn (Scotland) Bill will be covered by the licence fees. (S6O-02896)

The Minister for Energy and the Environment (Gillian Martin): NatureScot does not currently operate any licences on a cost-recoverable basis, and the bill does not mandate charges for the three new licence schemes that are set out in the provisions. However, the Scottish Government has committed to reviewing the wider species licensing system and assessing the potential to apply the principle of full cost recovery to species licensing. The bill therefore allows for the introduction of charges for issuing licences by providing that the licensing authority may charge a reasonable fee.

John Mason: Why does the minister think that the full cost should not be recovered through fees? Without that, there would be a subsidy from the public sector.

Gillian Martin: I agree with the sentiment of John Mason's challenge. We want any changes to the policy to be fair and proportionate. That is why our commitment to reviewing species licences

includes consideration of the potential to apply the principle of full cost recovery.

Every licence will have individual complexities associated with it, so we want to ensure that the approach is proportionate. Mr Mason can be assured that I am actively looking at the idea of full-cost recovery for all licences.

Rachael Hamilton (Etrick, Roxburgh and Berwickshire) (Con): Grouse shooting sustains 2,640 full-time-equivalent jobs in fragile and rural communities in Scotland, and it contributes £30 million to the Scottish economy. Does the Scottish Government have no idea of the socioeconomic impact of the proposed licence scheme for grouse shooting and muirburn on land managers, as it may cause job losses and disinvestment in the sector? When will the minister publish an impact assessment of the effect of the Government's legislation on each region in Scotland?

Gillian Martin: It is clear from all the exchanges with Rachael Hamilton on the topic that she is fundamentally against licensing shooting estates. Such licensing will bring them in line with a lot of other practices that require licences to operate. That will be a good thing for the sector as, if people are licensed to operate within the law, that will give the public confidence in the sector. It is also in keeping with many other shooting estates across Europe.

Rachael Hamilton: What about an impact assessment?

Gillian Martin: I am not prepared to be shouted at—

The Deputy Presiding Officer: Ms Hamilton, you have asked a question—allow the answer to be given.

Gillian Martin: I will leave it there. I think that that is best.

Agriculture Funding (Bew Review)

4. Douglas Lumsden (North East Scotland) (Con): To ask the Scottish Government whether it will provide an update on when the previously ring fenced £33 million of funding allocated to the agriculture sector as a result of the Bew review will be returned to its budget for the portfolio covering agriculture. (S6O-02897)

The Cabinet Secretary for Rural Affairs, Land Reform and Islands (Mairi Gougeon): The Deputy First Minister made it clear in her budget statement that we are committed to returning all of the funding to my portfolio to be invested in agricultural priorities at the appropriate time. During the coming financial year, £15 million will be returned and it will be spent entirely on agricultural priorities. We will also provide the same level of support through direct payments to

farmers and crofters that was available before Brexit. We are currently providing farmers and crofters with the most generous package of direct support anywhere in the UK. I am sure that the member will welcome and support that.

It is right that uncommitted spend is deferred to mitigate the on-going cost of living crisis, and all portfolios have been asked to make similar and very difficult choices. However, I assure the member that agriculture spending is ring fenced for the portfolio and that it will be returned to ensure that it delivers for the needs of the rural economy.

Douglas Lumsden: The National Farmers Union Scotland is rightly furious that the Scottish National Party-Green devolved Government has failed to return £61 million of withdrawn agriculture funds in the draft budget. Today, we heard that only 25 per cent of that funding will be returned, while, at the same time, the Government is cutting other agriculture funds. Can the cabinet secretary explain to Scotland's farmers and crofters why the SNP is not standing up for rural Scotland? When will our farmers get all of their money back?

Mairi Gougeon: The SNP-Green Government is standing up for our rural communities and for our farmers and crofters—*[Interruption.]* I would be grateful if I could answer the question that Douglas Lumsden posed.

I absolutely understand the NFUS's concerns. That is why I reiterate that the £61 million of deferred spending is ring fenced and therefore must be returned to the portfolio. As the Deputy First Minister confirmed to the NFUS—as well as to the Parliament—every penny of it will be returned to the portfolio, to be spent on agricultural priorities. I point out exactly what was in the budget yesterday and the levels of protection that we have offered in relation to other schemes that are not available elsewhere in the UK, and I ask the member whether he welcomes that. Our basic payment scheme, greening and the less favoured area support scheme—LFASS—are all absolutely critical for our farmers and crofters, and they are still being maintained as part of the budget.

Every single portfolio has had to make difficult choices and difficult decisions—as the Deputy First Minister outlined yesterday—but I reiterate the commitment that the money is due back to the portfolio and will be returned to the portfolio.

The Deputy Presiding Officer: I will take a supplementary question. I remind Conservative members that they can ask a question but they cannot then provide a running commentary throughout the answer.

Rhoda Grant (Highlands and Islands) (Lab): Agriculture funding is paid to devolved

Governments under historical EU settlements rather than through the Barnett formula. That formula sees Scotland receive about 17 per cent of agriculture funding due to the greater proportion of farming and crofting land. Does the cabinet secretary recognise that cutting the agriculture budget could put the payment framework in jeopardy and that it certainly does not help those of us who are making the case for a greater share of that funding?

Mairi Gougeon: I reiterate the points that I made in my previous response: it is deferred spending that will be returned to the portfolio, and it has to be returned to the portfolio, as the Deputy First Minister outlined yesterday. Critically, we are still protecting, and ensuring that we are delivering at the earliest possible point, that direct support for our farmers and crofters. We are trying to deliver it early, to ensure that their cash flow continues to be maintained.

I give an assurance in that regard, but one of the biggest threats that we face is having no clarity on what our budget settlement will be from the UK Government beyond this coming financial year. I hope that all members in the chamber will join me in asking that we get that clarity, so that we know what funding will be available going forward.

Land Reform (Urban Areas)

5. Foyso Choudhury (Lothian) (Lab): To ask the Scottish Government whether urban areas will be included in its land reform legislation. (S6O-02898)

The Cabinet Secretary for Rural Affairs, Land Reform and Islands (Mairi Gougeon): Land reform is an on-going process and each piece of work that we do builds on the legislation and policies that have gone before. In our forthcoming bill, we will bring forward a set of robust land reform measures whose key aim is to tackle the scale and concentration of land ownership in Scotland. In 2016, we extended the community right to buy and the funding that went with it to urban communities.

Our proposals for the forthcoming bill are based on recommendations from the Scottish Land Commission. They will take account of the views of all those who responded to our consultation and, in line with the established process, final decisions on the bill's contents will be made in due course by ministers. The bill will, of course, be published on the Scottish Parliament website following its introduction.

Foyso Choudhury: People owning land or a building that they are not using can severely impact urban communities, especially if the use of that land or building is not beneficial to the community. In that situation, urban communities

need to be able to buy that land and use it for a purpose that will benefit communities. Will the cabinet secretary advise exactly what action the Scottish Government is taking to ensure that urban communities' rights are protected under the land reform legislation?

Mairi Gougeon: The member raises a really important point. First, I emphasise that, currently, we have four community rights to buy, which exist under various pieces of legislation. There are also community asset transfers, through the Community Empowerment (Scotland) Act 2015, which are currently being reviewed. We have made commitments previously in relation to considering compulsory sales orders. That is a really complex piece of work that still needs to be undertaken. I know that the Minister for Local Government Empowerment and Planning, Joe FitzPatrick, is currently undertaking a piece of work on compulsory purchase orders, which I think will also consider that piece on CSOs.

We have the forthcoming land reform bill and, as I have said, we will set out the proposals in relation to that. It is also important not to forget the existing rights, although we need to make sure that they are operating as they should. There are also those on-going pieces of work. I will be happy to follow up with the member and provide him with more information on each of those.

The Deputy Presiding Officer: There is a brief supplementary from Alasdair Allan.

Alasdair Allan (Na h-Eileanan an Iar) (SNP): Given that, through the new legislation, the Scottish Government is continuing to support both rural and urban areas through the community buy-out process, will the cabinet secretary outline whether the new land reform bill will go further than before in terms of increased land ownership transparency?

The Deputy Presiding Officer: As briefly as possible, cabinet secretary.

Mairi Gougeon: Yes. That is certainly what we hope it will do. We really want to ensure that the bill is as ambitious as possible. I reiterate that we are committed to introducing a bill that is ambitious and that will be a significant step forward in ensuring that our land is owned and used in the public interest and, ultimately, for the benefit of the people of Scotland.

Low-welfare Pets

6. Russell Findlay (West Scotland) (Con): To ask the Scottish Government what discussions it has had regarding the sale of low-welfare pets ahead of the Christmas period. (S6O-02899)

The Minister for Energy and the Environment (Gillian Martin): The Scottish Government works

throughout the year to highlight the responsibilities of pet owners and those who sell domestic animals. Although we have not had specific discussions on the sale of low-welfare pets in the run-up to Christmas, we work closely on an ongoing basis with key stakeholders including the Scottish Society for the Prevention of Cruelty to Animals, local authorities and other United Kingdom Administrations to raise awareness of low-welfare breeders and to inform prospective buyers on how to buy a pet safely throughout the year.

We have run comprehensive public campaigns to raise awareness among prospective buyers of pups of the realities of the unlicensed puppy trade. The information and messaging for those campaigns is available online.

Russell Findlay: Organised crime contaminates many legitimate areas of Scotland's economy, including through its lucrative trade in puppies and dogs. Those poor animals often suffer chronic ill health, with one drug-dealing dog breeder being prime suspect in a terror campaign that forced a Scottish councillor to quit his post and leave his home. The criminals do not care about people, and they certainly do not care about animal welfare. Will the minister discuss with the Cabinet Secretary for Justice and Home Affairs how to tackle those despicable groups?

Gillian Martin: Russell Findlay has laid out that it does not matter what the commodity is; unscrupulous people will use any commodity, regardless of what it is. In this case, it is live animals, which affects the lives of the people who take on those animals. They will be left heartbroken when their animals are too ill to make it past a certain point. It is an absolutely disgraceful trade.

I point to the message from the Crown Office and Procurator Fiscal Service, which has done its own campaign on the issue this Christmas. It has been very helpful and anyone can find the campaign online. It is about highlighting the dangers of buying a puppy from unscrupulous people, as Russell Findlay has mentioned, and how that activity could be funding organised crime. It is a very effective campaign. I urge everyone in the chamber to look it up and share it on their social media channels over Christmas, because it is very powerful.

Energy Performance Certificate Reform (Impact on Island Communities)

7. **Sarah Boyack (Lothian) (Lab):** To ask the Scottish Government, in relation to its cross-Government co-ordination on islands policies, what discussions the rural affairs secretary has had with ministerial colleagues regarding any

impact on island communities of its proposed EPC reforms. (S6O-02900)

The Minister for Energy and the Environment (Gillian Martin): Ministers and officials across portfolios are aware of the need to recognise the impact of new policies on island communities. The Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights has taken forward a long-standing Scottish Government commitment to reform energy performance certificates based on the Climate Change Committee's recommendations, on which we consulted this year. Our current proposals to reform EPCs do not suggest any new duties or obligations on building owners. We are considering the impact on island communities as we go through the analysis of the consultation responses in the new year, as is required by the Islands (Scotland) Act 2018.

Sarah Boyack: Given the rocketing levels of fuel poverty in off-gas areas, in particular, and the upcoming heat in buildings bill, what specific support with advice and funding will the Scottish Government offer home owners to help them to increase the energy efficiency of their properties by installing insulation to lower their carbon emissions, by installing affordable heat options and by upgrading their homes? For example, can home owners access grants to install solar panels to heat or power their homes?

Gillian Martin: I refer Sarah Boyack to the raft of initiatives run by Home Energy Scotland, such as the home heating fund. She will have seen in the budget announcement yesterday that there was an uplift in the amount of money that was given in Mr Harvie's portfolio for the things that she has outlined in her question. Rural fuel poverty is an issue that is disproportionately affecting Scotland. If she has not done so already, I encourage Sarah Boyack to support my calls for a social tariff, which I have been calling on the United Kingdom Government to put in place ever since I was appointed.

Fisheries Negotiations (Stakeholder Engagement)

8. **Karen Adam (Banffshire and Buchan Coast) (SNP):** To ask the Scottish Government how it engaged with fishing industry stakeholders as part of the annual fisheries negotiations. (S6O-02901)

The Cabinet Secretary for Rural Affairs, Land Reform and Islands (Mairi Gougeon): We work closely and collaboratively with our stakeholders throughout the negotiation period. When the scientific advice is published, officials meet stakeholders from the fishing industry and environmental groups to discuss priorities to feed into the negotiating strategy. We have to seek the best outcome for Scotland's environment, fishing

interests and coastal communities, which means that we have to balance environmental, economic and social considerations, as well as looking at the short and long-term impacts on fish stocks and the fishing industry.

Throughout live negotiations, there are regular stakeholder meetings with the chief negotiator at which they provide updates and allow stakeholders to ask questions. If the Presiding Officer will allow, I will take a brief moment to thank all the stakeholders who have invested so much time and expertise in engaging with us and informing our approach to the negotiations. I also thank our negotiators, who always work tirelessly to do their best for the fishing industry in Scotland.

Karen Adam: I agree with the cabinet secretary about the stakeholders and how they negotiate their business. I was delighted to read that the Scottish Fishermen's Federation had praised the work of the Scottish Government in that area and that North Sea haddock and North Sea whiting were among the quota increases that were reported for Scottish fishers.

However, labour shortages are an acute problem in the seafood sector, particularly in seafood processing. I ask the cabinet secretary to continue to represent the views of the north-east fishers to the UK Government, to ensure that the opportunities that are presented by the increased quotas are not undermined by Brexit-related workforce shortages and the Tory visa rules that were announced this month.

Mairi Gougeon: The member raises an important point. I emphasise that, in Scotland, we do not share the United Kingdom Government's approach to migration and we categorically reject its hostile environment rhetoric.

Of course, we continue to support new domestic entrants to the Scottish seafood industry, but we also recognise and value the vital contribution that migrant workers make to the sector, the wider Scottish economy and our coastal and island communities.

By ending freedom of movement from the European Union and imposing new visa requirements for qualifications and salary thresholds, the UK Government has made it significantly more difficult for us to access labour and attract people to Scotland. I have repeatedly called for urgent reform of UK immigration rules. That has included offering to work with the UK Government to identify pragmatic ways to balance border security and enabling that access to labour. I will, of course, continue to do that.

NHS Recovery, Health and Social Care

The Deputy Presiding Officer: The next portfolio is national health service recovery, health and social care. Again, any member who wishes to ask a supplementary question should press their request-to-speak button during the relevant question. As with rural affairs, there is a lot of interest in asking questions. I would appreciate brevity in the questions and the responses from the front-bench team.

Obesity

1. **Martin Whitfield (South Scotland) (Lab):** To ask the Scottish Government whether it will provide an update on what steps it is taking to address obesity. (S6O-02902)

The Minister for Public Health and Women's Health (Jenni Minto): Addressing obesity is a public health priority and we continue to take forward a wide range of preventative actions to improve diet and promote health across the life course, as outlined in our diet and healthy weight delivery plan. That includes provision of core funding of £8.25 million to health boards in 2023-24 to deliver adult, child and young people's weight management services, in line with our national standards and the type 2 diabetes prevention framework.

Martin Whitfield: Statistics published by Public Health Scotland reveal that, this year, 22 per cent of primary 1 pupils were at risk of being overweight or obese. In 2018, the then First Minister made a commitment that the Scottish Government would halve child obesity by 2030. Our current primary 1 pupils were born in that year. By 2030, when those pupils will be in secondary 1, will half of the 22 per cent who are at risk of being overweight or obese be within acceptable standards?

Jenni Minto: The intention of the Government is to ensure that we have halved child obesity by 2030, from the original weights. I am working closely with my officials and third sector organisations to work out the best way that we can do that.

Audrey Nicoll (Aberdeen South and North Kincardine) (SNP): We know that junk food promotions can encourage overconsumption and impulse buying. Can the minister provide an update on work that is under way on plans to restrict in-premise marketing of food and non-alcoholic drinks that are high in fat, sugar or salt in order to reduce consumption and related harms?

Jenni Minto: As I have said, the Scottish Government remains absolutely committed to legislation to restrict the promotion of less-healthy food and drink. As part of an extensive

consultation process, we have just concluded a series of round-table events with public health and business stakeholders, which will further inform the development of our consultation document on the detail of proposed regulations. The consultation document will be published early next year and it will provide an opportunity for stakeholders to comment on the detail of the proposed regulations, with a view to our laying regulations subject to the outcome of that consultation.

Brian Whittle (South Scotland) (Con): Apart from its impact on personal wellbeing, obesity is also a significant drag on our economy. There is a high level of economic inactivity in Scotland, and remedying that will require behavioural change with regard to diet and access to physical activity. The minister will know of my passion for the education environment as the battleground in which we need to fight in that regard. What work is she doing with the Cabinet Secretary for Education and Skills to deliver solutions to that problem?

Jenni Minto: I recognise the member's passion for exercise and healthy eating. In its work on such issues, the Scottish Government takes a cross-portfolio approach. I engage with both the Cabinet Secretary for Education and Skills and the Minister for Children, Young People and Keeping the Promise.

Wishaw Neonatal Intensive Care Unit

2. Monica Lennon (Central Scotland) (Lab): To ask the Scottish Government whether it will reconsider its reported plans to downgrade the Wishaw neonatal intensive care unit. (S6O-02903)

The Minister for Public Health and Women's Health (Jenni Minto): The aim of the national health service and this Government is to ensure that everyone gets the best possible care. That is especially true for neonate babies and their families.

The restructuring of neonatal intensive care units was based on expert clinical evidence that showed that the proposed change was necessary to improve outcomes for the very smallest and sickest babies. The most pre-term and sickest babies do best when they are cared for in larger specialist neonatal units. To undo that would be to choose poorer outcomes for those babies, and that is not a choice that we would make. The member will agree that parents would very much expect us to act on such evidence in the best interests of their babies.

Local neonatal units across Scotland, including the unit in Wishaw, will continue to offer care to babies who need it, including a level of neonatal intensive care.

Monica Lennon: The minister's answer will infuriate and worry my constituents in Lanarkshire, and it represents a further blow to Wishaw's award-winning neonatal workforce. Almost 20,000 people have now signed a petition to stop the Scottish Government downgrading the award-winning, vital, life-saving service in Wishaw. We have a flawed proposal and a flawed process that has produced a flawed decision. It is vulnerable babies, their mothers and families who will be failed unless the minister listens, looks again and does her job properly. Will she extend some festive good will to my constituents, the Wishaw Neonatal Warriors, and finally commit to a full independent review in the new year?

Jenni Minto: I thank the member for her question, but I do not recognise some of the picture that she has painted. I will meet the chief executive of NHS Lanarkshire tomorrow to discuss the situation.

Stephanie Callaghan (Uddingston and Bellshill) (SNP): It is certainly welcome that local neonatal units, including the one in Wishaw, will continue to provide care to the vast majority of babies who need it. The decision to move to three national neonatal intensive care units has been made in line with strong evidence and advice. Does the minister agree that, if we are to deliver the best care outcomes for the smallest and sickest babies born in Scotland, it is important that the expert advice is listened to? Does she also agree that it is vital that the voices of local people are listened to and recognised as part of the process? Can she advise the Parliament what steps the Scottish Government is taking?

Jenni Minto: I agree with Stephanie Callaghan. We must follow the best advice available. We are moving to three national neonatal intensive care units to give babies who are born at the extremes of prematurity—we are talking about babies who are born before 27 weeks of pregnancy—the best chance of survival. Larger specialist neonatal units have specialist staff and services available on site to give those tiny babies the very best care.

I met families from Lanarkshire in November to hear their concerns, and we will continue to consult families in affected areas so that they have the opportunity to input to the design of service delivery.

Mark Griffin (Central Scotland) (Lab): The minister has said again that the decision to downgrade the Wishaw unit is based on clinical advice. That is why, back in October, I asked whether the minister would meet the award-winning clinicians in Wishaw. The minister agreed to meet them, and I subsequently wrote to clarify the arrangements for that. However, in its letter, the Government now makes no commitment to meet the clinicians who lead the unit. Why has the

minister gone back on her promise to meet the clinicians who run that life-saving unit?

Jenni Minto: As I said earlier, I will meet the chief exec of NHS Lanarkshire tomorrow, and—

Mark Griffin: That is not what I asked.

Jenni Minto: I know that that is not what the member asked. I ask him to let me finish my sentence. The issue in question will be discussed at that meeting.

The Deputy Presiding Officer: I urge members to ask their questions and then allow ministers to respond.

NHS Forth Valley Assurance Board

3. **Mark Ruskell (Mid Scotland and Fife) (Green):** To ask the Scottish Government whether it will provide an update on the work of its NHS Forth Valley assurance board. (S6O-02904)

The Cabinet Secretary for NHS Recovery, Health and Social Care (Michael Matheson): The latest version of the improvement plan was agreed recently by both the health board and the assurance board, and there is a clear expectation from all who are involved that progress needs to continue to be made across a range of areas including leadership, culture and governance.

The NHS Forth Valley assurance board continues to meet regularly, with the most recent board meeting taking place on 20 December 2023. The assurance board will continue to monitor and scrutinise the board's agreed improvement plan. Minutes of the NHS Forth Valley assurance board meetings are published and can be viewed at the www.gov.scot website. A copy of the improvement plan is available on NHS Forth Valley's website.

Mark Ruskell: I thank the cabinet secretary for that welcome update. The waiting times at Forth Valley royal hospital accident and emergency department have been a long-running concern, and they have highlighted the strain that our dedicated national health service staff are under, particularly in winter. What assurance is there that staff across health boards, including in NHS Forth Valley, will be properly supported through the winter, particularly so that we can get safe staffing levels with proper breaks and hot meals being provided to all staff?

Michael Matheson: In a range of areas, the improvement plans that are being taken forward by NHS Forth Valley are starting to indicate improvements in the way in which the board is performing. We have seen that over the course of recent weeks. The firebreak that the board is presently operating has been extended for a further two weeks in order to support and sustain some of the improvements that have been made.

During the winter period, our NHS is under enormous pressure, particularly at the front door around our A and E departments. We expect boards to ensure that there are appropriate welfare arrangements in place to support staff during their clinical duties.

Scottish Medicines Consortium

4. **Audrey Nicoll (Aberdeen South and North Kincardine) (SNP):** To ask the Scottish Government when it last met with the Scottish Medicines Consortium. (S6O-02905)

The Minister for Public Health and Women's Health (Jenni Minto): There are quarterly meetings between the chief pharmaceutical officer and medicine policy officials and the Scottish Medicines Consortium. The most recent one took place in September 2023 and the next one is scheduled for January 2024. In addition, both the chief pharmaceutical officer and the head of medicines policy meet representatives of the SMC on a regular and routine basis.

Audrey Nicoll: A new drug, trastuzumab deruxtecan, has been approved for use in Scotland for a type of breast cancer called HER2-low. The treatment slows the spread of the cancer and improves the patient's chances of survival when compared with chemotherapy, which will come as very welcome news to people living with the disease. There will be an eagerness for treatment to begin as quickly as possible. What steps will the Scottish Government take, in tandem with the Scottish Medicines Consortium and NHS Scotland, to ensure that hospitals have access to that life-saving drug as soon as possible?

Jenni Minto: I am delighted to advise that patients in Scotland will be among the first in the United Kingdom to receive that life-extending medicine to treat HER2-low breast cancer. The Scottish Medicines Consortium published advice on 11 December recommending trastuzumab deruxtecan for routine use to treat patients with HER2-low breast cancer in NHS Scotland. As with other new medicines, once the SMC publishes its advice, it is expected that health boards across Scotland will make the medicine available for routine prescribing within 90 days of the publication of that advice.

Sandesh Gulhane (Glasgow) (Con): I declare an interest as a practising NHS general practitioner.

The Scottish Medicines Consortium does not consider that drugs such as paracetamol and ibuprofen require significant advice, given that they are readily available over the counter and through pharmacy first. However, schools in Fife state that they will not give basic medication such as paracetamol or ibuprofen unless a GP has

prescribed it. Does the minister think that that is an appropriate use of GP time, given the pressure that we are under? Will she undertake to work with the Cabinet Secretary for Education and Skills to ensure that the issue is resolved?

Jenni Minto: I would be happy to speak to the Cabinet Secretary for Education and Skills and my chief pharmaceutical officer with regard to that, in order to understand more about the situation that the member has raised.

Jackie Baillie (Dumbarton) (Lab): People across Scotland are waiting to find out whether life-changing drugs such as Orkambi, Symkevi and Kaftrio will be available on the NHS for those suffering from cystic fibrosis, including those under two years of age. I know that the Scottish Medicines Consortium is working with the National Institute for Health and Care Excellence, but will the minister commit to ensuring that, whatever the outcome, those life-saving drugs will be available to everybody in Scotland without a postcode lottery at health board level?

Jenni Minto: Along with Jackie Baillie, I recently met families representing the cystic fibrosis community, and I was able to reassure them that, in Scotland, although the National Institute for Health and Care Excellence and the Scottish Medicines Consortium multiple technology appraisal is on-going, all existing and new patients who are on, or who are started on, a treatment for cystic fibrosis will continue to have access to that treatment after they issue their final recommendations, irrespective of outcome.

“Infant Feeding Statistics Scotland”

5. Stephanie Callaghan (Uddingston and Bellshill) (SNP): To ask the Scottish Government what its response is to the recent Public Health Scotland report “Infant Feeding Statistics Scotland”. (S6O-02906)

The Minister for Public Health and Women’s Health (Jenni Minto): I am delighted that the current infant feeding statistics show that breastfeeding rates across Scotland continue to increase, with more than two thirds of all babies being breastfed at birth and more than half continuing to receive breast milk at 10 to 14 days. Rates at six to eight weeks have risen to 47 per cent, which is the highest rate on record, showing that many more babies are being breastfed for longer than ever before.

We are committed to protecting, promoting and supporting breastfeeding as the normal nutrition for babies and giving them the best start in life, with more than £9 million in additional investment over the past five years.

Stephanie Callaghan: I welcome that further investment. Encouragingly, increases in

breastfeeding over the past 10 years have been greatest among those groups with low rates historically, such as young women and those living in the most deprived areas. However, only 34 per cent of babies born in Scotland’s most deprived areas were breastfed at their six to eight-week review, which compares with 63 per cent in the least deprived areas. What further steps is the minister planning to take to improve levels of breastfeeding in deprived areas, and will she consider making additions to the baby box?

Jenni Minto: I am pleased to see that the latest infant feeding statistics show a continued narrowing of the breastfeeding inequalities gap. Our additional investment has been both targeted and based on best evidence of what works. Scaling that up is part of planned next steps. Our infant feeding teams are pivotal in that effort, and we will continue to use all means necessary, including Scotland’s baby box, to normalise breastfeeding in Scotland. The Family Nurse Partnership has had a crucial role in supporting teenage parents, many of whom are in the lowest Scottish index of multiple deprivation areas, to breastfeed.

Paul Sweeney (Glasgow) (Lab): The disparity between income deciles on breastfeeding rates is a matter of great concern. Will the minister consider enhancing support for general practitioner surgeries, particularly around aspects such as community link workers and connections with charities such as Home-Start UK, to further enhance the promotion of breastfeeding in the most deprived communities?

Jenni Minto: I highlighted in my previous answer the important work of the Family Nurse Partnership. I agree that there is a lot of work to do, and it is clear that third sector organisations with which the Scottish Government is working are doing that.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): Does the minister agree that, although we want breastfeeding rates to increase, it is not always easy or appropriate for all women to breastfeed? We should not stigmatise those who find that they are unable to breastfeed. All mums need to be equally supported.

Jenni Minto: Bob Doris raises an important point. I do not disagree with him. It is important that all new mums are supported. I hope that the Family Nurse Partnership is able to support mothers and families in all situations.

Endometriosis Services

6. Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): To ask the Scottish Government when it plans to establish a specialist

endometriosis centre within every national health service board in Scotland. (S6O-02907)

The Minister for Public Health and Women's Health (Jenni Minto): The role of specialist endometriosis centres in Scotland is to provide co-ordinated, multidisciplinary treatment to individuals with complex systems of endometriosis and to those requiring complex surgery. Scotland operates three centres, which are in Aberdeen, Edinburgh and Glasgow. That was recommended as the optimal approach for effective treatment in Scotland by a specialist working group of expert clinicians and representatives from patient groups and Endometriosis UK. There are no plans to establish a specialist centre within every NHS board.

Rachael Hamilton: Local charities in the south of Scotland are dedicated to improving endometriosis treatment. One of them, Endometriosis South of Scotland, which is known as Endo SoS, said:

"Having local centres saves money for patients and the NHS, travel times are reduced, missed appointments are lower and referrals to specialist care are faster."

It added:

"We need more locations to support the rural population and to reduce diagnostic and general waiting times."

Will the cabinet secretary find some time to meet me and local campaigners to discuss the need for a specialist endometriosis centre in the Borders?

Jenni Minto: I would be very happy to meet Rachael Hamilton and her constituents.

Emma Harper (South Scotland) (SNP): We know how substantial an impact endometriosis can have on women's lives. It is clear that we need to continue to press forward with research into the condition to ensure that the most effective treatment options and support can be provided. Can the minister provide any further information regarding work that the Scottish Government is undertaking to support research into endometriosis-associated pain?

Jenni Minto: We are jointly funding a £250,000 endometriosis research project with the charity Wellbeing of Women. The research project, which will primarily be run by researchers at the University of Edinburgh, will look at the drug dichloroacetate in the management of endometriosis-associated pain. It is a fantastic project, which I was privileged to visit in the summer.

In addition, in January 2023 our chief scientist office announced funding for the ENDOCAN project, led by researchers at the University of Edinburgh, for a large-scale United Kingdom-wide trial. The research will investigate whether a cannabinoid can reduce endometriosis-associated

pain. Funding of just under £300,000 has been committed to the 30-month project.

Carol Mochan (South Scotland) (Lab): As well as expanding the number of specialist endometriosis centres, it is also critical that the impacts of endometriosis are recognised in the workplace. I was pleased to learn that East Ayrshire Council has become the first local authority in Scotland to officially recognise the impact that endometriosis has on female employees by signing up to the endometriosis friendly employer scheme. What engagement has the minister had with that important scheme, and will she take the necessary steps to encourage all councils to engage with it?

Jenni Minto: I think that such schemes are so important. I recently launched one for NHS Scotland staff in relation to menopause and various other areas. It is incredibly important that workplaces appreciate the impact that various conditions have on their workforce and get the right policies in place to ensure that workers are able to be there and do the best in their jobs.

General Practitioner Services Model (Appointments)

7. **Pauline McNeill (Glasgow) (Lab):** To ask the Scottish Government whether it has reviewed the general practitioner services model, including in relation to whether patients are getting appointments when they need them. (S6O-02908)

The Cabinet Secretary for NHS Recovery, Health and Social Care (Michael Matheson): I am clear that patients should always have access to general medical services and that all local national health service boards should ensure that general practitioner services continue to be provided to all patients. Patients should always be able to see GPs when they need to.

Five years on from the joint agreement between the Scottish Government and the British Medical Association on the 2018 GP contract, our health and social care partnerships have made significant progress in recruiting multidisciplinary teams to support general practices. We have more than 4,500 staff working in those teams, providing services including physiotherapy, pharmacy and phlebotomy.

Pauline McNeill: A rapidly increasing number of patients are seeking GP appointments, but that demand, combined with cuts to the primary care development fund, is placing immense pressure on GP services and leaving many patients to face long delays or simply unable to get an appointment when they need one. GPs are often taking double, if not triple, the recommended limit of 25 consultations a day, and Audit Scotland has

said that the Government is “unlikely” to deliver its promise of 800 new GPs by 2027.

I ask the cabinet secretary to address a specific point about the design of the appointment system. Some patients report that they use one system and can get an appointment, and other patients report that their GP uses a completely different system and that they have to wait longer for an appointment. Does the cabinet secretary agree that every patient across Scotland should expect the same service design—

The Deputy Presiding Officer: Cabinet secretary.

Pauline McNeill: —so that they get the same efficient service from their GPs?

Michael Matheson: The issue that the member raises with regard to the appointment system is down to individual GP practices, because the vast majority of those practices are independent contractors. It is their responsibility to design a system that best meets the needs of the contract in order to deliver appointments to patients.

The member might be aware that, in October, we published the outcomes from the general practice access principles work, which was taken forward to look at how to get greater consistency. It came up with a set of principles that GP practices have been asked to apply. However, because of the independent contractor model, it is down to individual practices to decide on the model that they use locally.

Craig Hoy (South Scotland) (Con): Despite the heroic efforts of GPs and their teams, too many of our constituents are struggling to see their doctors. Earlier this year, a constituent in the Scottish Borders received a positive bowel cancer test, with a letter saying that a blood test was urgent. The local GP practice said that an appointment would take at least 10 days. With cases like that happening right across South Scotland, is it not time that the Scottish Government properly invested in GP services and matched the Scottish Conservatives’ commitment to invest 11 per cent of the national health service budget in primary care?

Michael Matheson: We are, of course, investing in primary care services. I recognise the concern that the member has raised, but there is variation in how GP practices operate, how they approach certain issues and how some patient services are provided. I have witnessed that at first hand from my personal experience and from my experience as health secretary. It is important that we ensure that people receive good-quality services from GPs, which is why we are increasing the recruitment of GPs and why the number of GP specialty training places that we are offering has been increased this year and will increase again

next year. We will continue to invest in primary care.

Willie Rennie (North East Fife) (LD): I am afraid to tell the cabinet secretary that the recruitment of additional staff that he has talked about—pharmacists, physiotherapists, mental health staff and phlebotomists—is not progressing well in my constituency of North East Fife. Last week, I met people from GP practices who told me about recruitment difficulties with NHS Fife. Will the cabinet secretary consider transferring responsibility for the recruitment of additional staff over to GP practices, so that they can make progress?

Michael Matheson: The challenge with what Mr Rennie suggests is that it would introduce further variation, because GP practices could take different approaches, some of which might not involve the provision of the wider multidisciplinary team that we are trying to achieve. However, I have said to the British Medical Association that I am open to looking at alternatives to the existing model that operates, although the outcomes for patients must continue to be improved as a result of expanding the multidisciplinary team. I am more than happy to continue to engage with the BMA on that, but it is essential that there is a consistent approach to how multidisciplinary teams are provided across the country.

The Deputy Presiding Officer: With apologies to the members whom I was not able to call, that concludes portfolio questions on NHS recovery, health and social care. There will be a brief pause before we move to the next item of business to allow the front-bench members to change.

A9 Dualling

The Deputy Presiding Officer (Annabelle Ewing): The next item of business is a statement by Màiri McAllan on the A9 dualling programme. The cabinet secretary will take questions at the end of her statement, hence there should be no interventions or interruptions.

14:52

The Cabinet Secretary for Transport, Net Zero and Just Transition (Màiri McAllan): Following the Deputy First Minister's budget statement yesterday, I am pleased to have the chance to provide more detail on completing the dualling of the A9 between Perth and Inverness. I know that this statement is keenly anticipated, especially by those who are concerned to see safety improvements developed on the A9 and by the many Scottish communities and businesses for whom the A9 is essential. I am acutely aware of the strength of feeling on the issue.

The programme has faced challenges, and I acknowledge that it has not progressed at the pace that we would have liked. There have, of course, been particular challenges, with sky-high inflation causing slippage in major capital projects. However, the A9 is the backbone of Scotland. It must be safe, reliable and resilient, and that is what the Government will deliver.

When I assumed responsibility for transport in Cabinet in June, my primary objectives for the A9 project were threefold. The first was to oversee amendments to Transport Scotland's approach to procurement of its design and build contracts in order to improve prospects and avoid a repeat of last year's experiences with the section between Tomatin and Moy. The second was to finalise a delivery plan for dualling the remaining sections of the programme that foregrounded certainty of delivery but carefully balanced that against considerations of market capacity, affordability and the need to minimise disruption on the network. Finally, in the meantime, the objective was to progress interim safety interventions short of, and in anticipation of, dualling. I will address each of those issues.

Although my remarks will focus principally on the remainder of the programme, I will first say a word on the Tomatin to Moy section. Following the outcome of the first procurement for that section, Transport Scotland undertook extensive market consultation with the construction industry to gather views on how its major road projects could generate improved tender competition. As a result of that engagement, the new engineering contract, with amendments, was adopted for use for a new procurement for the Tomatin to Moy section.

The change in contracting approach was welcomed by the Civil Engineering Contractors Association. The new engineering contract is preferred by the industry and is widely used across the United Kingdom, with the terms and conditions that have been adopted by Transport Scotland now offering a more balanced approach to the sharing of risk between Scottish ministers and those to whom we provide contracts.

I confirm that, on 11 December this year, invitations to participate in dialogue were issued to three short-listed contractors, and it is expected that the contract will be awarded in early summer 2024, with the completed dualling expected to be operational by the end of 2027.

Meanwhile, the Scottish Government has been determinedly considering procurement options for dualling the remaining eight sections. Options that have been considered include procuring all projects using either a design and build contract or a mutual investment model, which is used by the Welsh Government, or using public-private partnership contracts. Indeed, we considered a hybrid of both approaches.

We have also considered carefully how works will be sequenced to provide an efficient overall programme that aligns with the market's capacity to deliver, that minimises disruption to road users and that is achievable within the wider financial constraints. As the Deputy First Minister outlined yesterday, the UK, having not inflation proofed its capital budget, has left us with a nearly 10 per cent real-terms cut in our capital funding between 2023-24 and 2027-28.

This has been a complex exercise, but the Government has concluded that a hybrid approach is the best way to complete the A9 dualling programme. I therefore confirm that the Government will progress the three remaining A9 dualling projects at the southern end of the route via three capital-funded design and build contracts. We then anticipate progressing the five remaining projects in the north and central stretches via two resource-funded MIM contracts. That is subject to on-going due diligence and further decision making in late 2025, and it will be based on an updated assessment of expected market conditions.

I confirm that, in progressing the delivery plan, work will begin immediately on preparations for the procurement for the next design and build contract, which will be for the Tay crossing to Ballinluig project, with the contract notice planned for publication in spring 2024 and the award anticipated to be made in summer 2025.

In addition, procurement for the Pitlochry to Killiecrankie project and, subject to completion of statutory processes, the Pass of Birnam to Tay

crossing project will commence in summer 2025 and summer 2027, respectively.

Subject to decision making in late 2025, procurement for the two remaining northern projects, under a single MIM contract, could commence in winter 2026-27, with procurement for the second MIM contract comprising the remaining three central projects commencing in 2028-29.

The hybrid approach will create a rolling programme of construction that will lead to the progressive opening of the dualled sections. Under the new plan, we anticipate that, by the end of 2030, nearly 50 per cent of the A9 will be open as dual carriageway, rising to 85 per cent by the end of 2033 and, eventually, to 100 per cent by the end of 2035. That means that we will see significant benefits from the dualling programme years ahead of the backstop in 2035. We have published all the details of the programme on the Transport Scotland website today.

As part of our work, we have prepared updated scheme cost estimates for each project. The total cost of the programme is now estimated to be £3.7 billion at April 2023 prices. When adjusted for inflation, that is equivalent to £2.45 billion at April 2008 prices, which members will note is well within the original cost estimate of £3 billion at 2008 prices.

Having talked about cost, I now want to talk about safety. The improved safety that is expected from dualling is crucial. I take this opportunity to offer my heartfelt sympathies and my condolences to anyone who has lost a loved one or, indeed, been injured in collisions on the A9.

Dualling will reduce driver stress and accidents. Likewise, the severity of accidents and journey times for emergency vehicles will be reduced. Dualling offers resilience, limiting the need for lengthy diversions. At the same time, the A9 is critical to the movements of freight and of business and leisure travellers. Dualling improves reliability and average journey times by 20 per cent. That is transformative for a route that serves 35 per cent of our land mass and carries around 10 per cent of Scotland's gross domestic product in terms of cargo.

Investment in the route will help to grow the economy, but the impact will be wider than the economic aspect. The A9 is the backbone that connects central and highland Scotland and, for the 10,000 people who live along it, it is often the only connection to vital services. Investment will also maximise the range of opportunities for contractors and their long supply chains. The programme will ensure that the link between two of Scotland's great cities is safe and fit for purpose

for everyone who needs to use it now and in the future.

Comprehensive stakeholder engagement on the delivery plan will begin early in the new year, building on the extensive engagement to date. As a first step, I will write to interested MSPs today to invite them to a briefing in the Parliament. Regular engagement will continue as the programme progresses, including, of course, with local communities on individual projects.

In the meantime, anyone with an interest in the A9 can sign up for updates at www.a9dualling.scot, prior to the full launch of a new A9 dualling website early in the new year. We will advertise engagement opportunities here and through traditional and social media.

Decisions to complete the statutory process are now complete for more than 92 per cent of the programme. We will complete the statutory process for the three outstanding schemes with ministerial consent next year and will acquire the necessary land to support the procurement timetable.

The only project not to have started that process is the Pass of Birnam to Tay crossing. I thank the local community for their valuable input through the co-creative process and, today, I can announce that the preferred route for that section is confirmed and that it includes a number of the elements of the community's preferred options, including a roundabout at Dunkeld and the junction layouts at the Hermitage and Dalguise. Further details of the preferred route, such as the programme, are available on Transport Scotland's website, and local communities and road users will have the opportunity to comment on the plans at public exhibitions in January.

I would like to say a word on safety in the time that I have left to speak. Having provided an update on Tomatin to Moy and the remainder of the programme, I want to close with the issue of safety because, since 2007, the Government has invested £300 million in the maintenance and safety of the A9 and a further £3.6 million on average speed cameras.

Following the tragic loss of life that has occurred on the route, particularly in 2022, we have been investing an additional £5 million, approximately, and I am pleased to confirm that those safety measures are progressing at pace, with a number of elements completed. Those include enhancements to signage and road markings, with particular emphasis at junctions and those transitions between dual and single carriageway sections. As is the case with the rest of the trunk road network, the safety performance of the A9 will continue to be regularly reviewed.

Time is against me, so I will conclude. Today, this Government restates its commitment to dualling the A9 between Perth and Inverness, which we are doing with a concrete plan. The approach that I have set out means that the Highlands can have confidence that the considerable benefits of the A9 dualling programme will be delivered and in full. Now that we have reached that point, there will be no let up. When construction starts on Tomatin to Moy next year, under this delivery programme, it will roll continually until the route between Perth and Inverness is fully dualled.

The Deputy Presiding Officer: The cabinet secretary will now take questions on the issues that were raised in her statement. I intend to allow around 20 minutes, after which time we will move to the next item of business. It would be helpful if members who wish to ask a question would press their request-to-speak button.

Murdo Fraser (Mid Scotland and Fife) (Con): I thank the cabinet secretary for advance sight of her statement, although we have been waiting for the update since February and here we are, on the second-last sitting day of the year. However, our wait here is as nothing to the wait of the people of Perth and Kinross and the Highlands and Islands, who have been waiting for years to see this vital project completed, with an SNP Government in power that has delivered a mere 11 miles of dual carriageway in 16 years.

Throughout that period, too many lives have needlessly been lost, and more will die as a result of the delays that we have heard about today. At best, we will wait another 12 years for the project to be completed, and that is the most optimistic outcome that we can hope for.

The cabinet secretary did her best to deflect criticism on to the UK Government, but I would gently remind her that, if the SNP had kept its promise to complete the dualling by 2025, the challenges that she identified with inflation and her Government's capital budget would not have been an issue.

Today, we were expecting to hear that a contract had been placed for the Tomatin to Moy section. Even that has not been delivered. Instead, the best that we have is an expectation that there will be a contract award in summer next year. One year on from where we were at the start of this year, we are precisely no further forward.

I will therefore ask the cabinet secretary three things. First, what guarantees can she give us that the contract award for the Tomatin to Moy section will, in fact, now be done, and on the timescale that she has outlined, given all the slippage in timescales that we have seen in the past? Secondly, in relation to the remaining sections,

what confidence can we have that the timescales set out today are, in fact, deliverable, even supposing that the funding can be found? Thirdly, how confident is the cabinet secretary that there is appropriate civil engineering contracting capacity to carry out those works, and what discussions has she held with industry to determine its willingness to tender for the contracts that are being proposed?

Màiri McAllan: I begin by acknowledging Murdo Fraser's point about there having been a delay in my update. I had hoped to give this update some weeks ago, and I am always seeking to expedite progress in this regard. Unfortunately, the A9 dualling project is a complex project—indeed, it is 11 complex projects—but, as of today, it is a complex project with a comprehensive delivery plan. I hope that even Murdo Fraser can welcome that.

The critical theme in all the points that Murdo Fraser raised is about certainty regarding both the Tomatin to Moy section and the remainder of the programme. The plan that we have set out today has sought to foreground certainty of delivery. However, as I said in my statement, we have carefully balanced that with the other factors that we must consider: the need to minimise disruption, market capacity and, of course, affordability.

With all of that taken into account, the plan that we have published today provides the greatest certainty that I am able to provide, bearing in mind that this is a large project with significant complexities and interdependencies, all of which are susceptible to a variety of external factors, not least the financial volatility that we have become so accustomed to under Murdo Fraser's Government.

Alex Rowley (Mid Scotland and Fife) (Lab): The SNP first committed to dual the A9 back in 2007. Today, 16 years on and excuse after excuse after excuse later, the cabinet secretary expects us to be happy that, by 2030—23 years after the 2007 commitment—it will have completed less than 50 per cent of the project.

With a new date of 2035 for completion of the dualling between Perth and Inverness, some 28 years after the initial promise, one has to wonder how on earth the cabinet secretary can say with a straight face that the Highlands can have confidence that the A9 dualling programme will be delivered in full. Does the cabinet secretary have the confidence that this Government is even capable of delivering infrastructure projects of that scale?

Màiri McAllan: This Government has a proud history of delivering major projects. [*Interruption.*] There is a plethora of major projects, and I have absolute confidence—but, at the same time, I am

not complacent. That is why we have spent the time. As I set out, since I have had responsibility for this, I have been determined to spend time finding all the ways possible to increase certainty in this project. That has involved updating our business case and spending considerable time—and Transport Scotland spending considerable time—engaging with the industry to update our approach to contracting under design and build contracts. That has all brought together this new plan, which, for the first time, anticipates using a hybrid model of funding options that are available.

That is an example of the Government using every tool at its disposal and working exceptionally hard to give the Highlands and everyone who, I accept, has been waiting too long confidence that the plan will be completed on a rolling basis of construction—50 per cent completed by 2030, 85 per cent by 2033 and 100 per cent dualling by the end of 2035.

John Swinney (Perthshire North) (SNP): I welcome the reaffirmation of the Government's commitment to dual the A9, which builds on the successful completion of a range of capital projects—including the Queensferry crossing, the M74 completion, the M8 completion, the Aberdeen western peripheral route completion, the Airdrie to Bathgate railway and the Borders railway—and the cabinet secretary's acceptance of a number of the proposals that my constituents in the Dunkeld and Birnam area made regarding the design of the route at that particularly challenging site. Does the cabinet secretary agree to herself, the Minister for Transport and their officials engaging further with community groups in Dunkeld and Birnam about the design issues and, crucially, on short-term improvements that could be made to road safety in advance of the dualling works that are being undertaken?

Màiri McAllan: I thank Mr Swinney for eloquently reeling off the plethora of major projects that the Government can be proud of having delivered.

On the point about his locality, I thank the Birnam to Ballinluig A9 community group for its work with us in a co-creative process, which has helped to broaden our vision for the A9 dualling project through that important route. The Minister for Transport and I truly value the input that the group has made to the process.

Building on the positive relationship that has been established, I reassure Mr Swinney that we will continue to engage with him and his local community as we continue our development of that section of the A9, which is taking a big step forward today. Indeed, I advise members that Transport Scotland officials are meeting the Birnam to Ballinluig A9 community group later this afternoon to discuss the preferred route option. As

I mentioned in my statement, we will hold public exhibitions for the community in January.

Jamie Halcro Johnston (Highlands and Islands) (Con): Time and again, SNP ministers came to the chamber, appeared in front of committees or pledged in public that the A9 would be dualled in full between Inverness and Perth by the promised 2025 date. That was despite all evidence being to the contrary. We now know that, since 2018, they were not being honest. The Scottish Government knew, because officials told it, that the 2025 date was unachievable. However, it was not until last year—nearly five years later—that SNP ministers finally came clean.

How can local businesses, people who live along the route of the A9 and those who have lost loved ones on the road trust the Government to finally deliver on those new, even more vague promises when they have been lied to so many times before?

Màiri McAllan: Presiding Officer, I am not sure that that was parliamentary language, but that is entirely your decision to adjudicate on.

The Deputy Presiding Officer: Cabinet secretary, please resume your seat. I heard what the member said and I noted carefully the way in which he phrased it. It is, of course, absolutely unacceptable to refer to another member as having lied or been untruthful, but I felt that the way in which it was phrased did not quite fall within that bracket. Indeed, it would be a matter for me, in the chair.

Màiri McAllan: As I said, it is for you to adjudicate on.

The member's question centred on the inquiry that the Citizen Participation and Public Petitions Committee is undertaking, which is a retrospective look at the progress of the programme to date. My statement is concerned with looking forward, but I have agreed to appear in front of the committee to assist it in its important inquiry. Indeed, some of the documents that Mr Halcro Johnston referred to are part of the very many that the Scottish Government has handed over to the inquiry.

I think that Mr Halcro Johnston will find that he will have to correct the record at some point in the future. The papers make it entirely clear, and I will certainly reiterate at committee, that Transport Scotland did not know for certain until late 2022 that the 2025 date was not deliverable. A number of the papers that Mr Halcro Johnston is speaking to talked, for example, about moving only to a MIM and the deliverability of that by 2025; they did not mention capital design and build.

As I said, I am happy to appear in front of the committee to discuss those matters, giving a

retrospective account. Today, I am looking forward with the optimum delivery plan.

Audrey Nicoll (Aberdeen South and North Kincardine) (SNP): Will the cabinet secretary say a bit more about the mutual investment model that she referred to in her statement? What does it entail and what are its advantages?

Màiri McAllan: Yes, I am happy to say more about it. As I said in my statement, the mutual investment model is one that has been developed and used by the Welsh Government. It is a form of public-private partnership that is similar in many respects to the non-profit-distributing contract, which was previously used in a number of major road projects, including some of those that Mr Swinney narrated.

The principal advantages that such a contract offers are that it provides additionality of investment through the use of private finance to deliver infrastructure projects and reduces the level of annual expenditure by spreading payments over a longer period. However, it represents a significant long-term financial commitment and requires a detailed consideration of market conditions, especially inflation and the cost of borrowing. That is why, in a prudent manner, we have built-in decision-making points in the programme, whereby we will consider how appropriate it is to move to a MIM, given the prevailing market conditions at the time.

Rhoda Grant (Highlands and Islands) (Lab): The announcement that one section will be dualled in the next four years is not going to pacify my constituents' anger about the lack of progress. The Government knew that it was not going to meet its 2025 promise, yet it tried to hide that.

Will the cabinet secretary give details of the key differences between the design and build model and the mutual investment model and say where the risk for each lies? Given the Government's deception in the past, will she tell my constituents how they can realistically gauge progress towards completion for themselves?

Màiri McAllan: I hope that the member was listening to my response to Jamie Halcro Johnston, when I made it absolutely clear that it was not until 2022 that Transport Scotland knew for sure that 2025 was not achievable. The Scottish ministers updated the Parliament shortly thereafter.

In referring to one section being completed in the coming years, Rhoda Grant is missing the point that I have been stressing, which is that, although this is a 12-year programme, it is one of rolling construction. Once spades are in the ground for the Tomatin to Moy section next summer, we will see rolling construction right through to 2035. As I said, following that

progressive opening, there will be dualling of 50 per cent by the end of 2030, 85 per cent by 2033 and 100 per cent by the end of 2035, so that people—I accept that they rely fundamentally on the route—can enjoy the safety, economic and other benefits that come from dualling in advance of the entire programme's completion.

Fergus Ewing (Inverness and Nairn) (SNP): On the way to the chamber this afternoon, and quite by chance, I bumped into an Invernessian who reminded me that he had lost friends on the A9. That was a salutary reminder of the force behind the campaign.

In any campaign, it is wise to accept victory where it occurs and to be magnanimous. It is said that to be prepared is half the victory, and I think that the cabinet secretary will agree that we are not yet fully prepared. Will she acknowledge that many people, including me, will continue to remain sceptical until they see the diggers on the road, and that the statement today, although encouraging, involves a huge amount of work ahead? There must be no more slippage, no more delays and no more broken promises.

Màiri McAllan: I thank Fergus Ewing for his question and for his determined campaigning on the matter since I have been in post and long before that. He mentioned in his opening remarks the loss of life, which is the principal issue that is at the forefront of the matter. Over the summer, I attended with him an event that was organised by *The Press and Journal* and the *Inverness Courier*, where we were joined by family members of the bereaved. I assure him and the chamber that that experience will never leave me and has been with me in all the work that we have been seeking to do as a team ever since.

I would not expect Fergus Ewing to be anything other than sceptical—helpfully sceptical, I hope—but I assure him, as I have other members, that what we have tried to produce today is the greatest possible certainty in a fairly uncertain world. I assure him that, although I cannot prevent issues from arising, where they arise, the Government will seek to overcome them as quickly as possible.

Beatrice Wishart (Shetland Islands) (LD): Yesterday, we heard of another serious crash on the A9 near Invergordon, and my thoughts are with those who were taken to Aberdeen royal infirmary after the collision. That highlights the known dangers of the A9 in its current state.

There was news last week that, in 2018, it was thought that the target to dual the A9 between Inverness and Perth by 2025 was unachievable, but ministers did not change course to address that, so 77 miles of the A9 are still not dualled. The new timeline will mean years of delay from the

original commitment, and I must say that I am surprised that there was no apology for that anywhere in the cabinet secretary's statement. What guarantees will the Scottish Government provide that its new dates are realistic and that we will see completion by the new date?

Màiri McAllan: I echo to Beatrice Wishart what I said to Fergus Ewing and a number of others—I reassure her, in the first instance, that the certainty of delivery that she and others seek has driven the development of the plan. Although it would be a little foolish to suggest that, in a project of this scale and complexity, issues will not arise—of course they will—I give her the same commitment as I gave Fergus Ewing and others, which is that, where issues arise, the Government will seek to address them as quickly as possible.

Beatrice Wishart is absolutely right to acknowledge the accident that occurred near Tomich this week. My sympathies and those of all my colleagues are with those who were involved. We are awaiting further details. I thank the emergency services who were so promptly on the scene. That relates to another part of Beatrice Wishart's question, which is about dualling being principally a safety issue. I have it at the forefront of my mind that dualling will reduce driver stress and frustration and will reduce the severity of accidents, because head-on collisions are the most difficult and fatal. In addition, emergency vehicles' access will be quicker not just when there are accidents on the road but for the 10,000 people who live along the route.

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): I declare an interest in that I spend about 10 hours every week on the A9. The cabinet secretary may recall that, just a matter of weeks ago, the Tories said that dualling the A9 would take a century, so I have never been more thankful that she is in charge, with an updated deadline of 2035, and not them. I also pay tribute to the highlanders who have waited patiently for the A9 to be dualled, and to their spokespeople—not least the *Inverness Courier*, which is represented here today.

Certainty matters and, to restore trust, we have to keep communities regularly informed so that there are no surprises. How do we do that so that they can trust the Government's pronouncements and trust that progress is genuinely being made?

Màiri McAllan: I understand entirely the sentiments that Kate Forbes expresses. My clear objective today is to set out that this is a new optimal delivery plan and that it is concrete. The approach that we have set out means that people in the Highlands and those who travel there can have confidence that we will realise as efficiently as we can all the considerable benefits of A9 dualling that we know exist.

I repeat that now that we have reached this point, there will be no let-up. Under the plan and the rolling delivery programme, there will be continual work and construction until the route is finished. Kate Forbes is right to point out that recent so-called research by the Conservative Party pointed to the work potentially taking 111 years. I hope that even it will welcome the fact that the work will take about a tenth of that time.

Edward Mountain (Highlands and Islands) (Con): In the dark days of winter, we now get the promised autumn statement on the A9—I suppose that it is better late than never, considering the time that we have been waiting for this project. Given the Government's record, how can Scots believe that it can deliver only a miserable seven miles a year of dualling to complete the project by 2035? Given the Government's failure to deliver a long-standing promise, surely we should expect more.

Màiri McAllan: I again point out to Edward Mountain the irony that, while his party was compiling what it calls research—and what I would call a little ridiculous—and press releases, the Government was, thankfully, taking the issue seriously and working hard to overcome the barriers that we needed to in order to present the comprehensive plan today. That includes, as I said, looking closely at and updating our business case and working with industry to improve how we procure design and build contracts. It also includes building a plan that, as I said, foregrounds certainty of delivery while considering market capacity and affordability and ensuring that there will not be unmanageable disruption on the route.

Mark Ruskell (Mid Scotland and Fife) (Green): The cabinet secretary rightly highlighted safety on the A9 as the overriding priority. The Green group is behind the appropriate action that is needed to cut casualties and tragedies on the road. However, given that the A9 programme will not be completed until the mid-2030s, what other options have been reviewed to improve safety on the A9 while staying on track to meet our legally binding climate targets?

Màiri McAllan: I am grateful to Mark Ruskell for highlighting that, as far as the Government is concerned, the principal driver of the work is improving safety. As I mentioned in my statement, since 2007, the Government has invested £300 million in the safety and maintenance of the A9 and a further £3.6 million in average-speed cameras. I think that everybody would accept that those measures have made a difference, but they do not go as far as dualling will.

Following the marked increase in 2022 in the number of accidents, we responded with an additional £5 million for road safety measures, including enhancements to signing and road

markings with an emphasis on junctions and the transition between dual and single carriageway, which we know can be difficult. The introduction of average-speed cameras, the work of Police Scotland, targeted education campaigns and the on-going management and maintenance of the route have helped to reduce the number of accidents and casualties from the the long-term trend that we were seeing, with the exception of 2022. That remains at the foreground of our thinking.

The Deputy Presiding Officer: That concludes the statement. I apologise to the few members whom I was unable to call.

Point of Order

15:26

Meghan Gallacher (Central Scotland) (Con): On a point of order, Presiding Officer. I seek your guidance. The statement on the Scottish Government's response to the section 35 order judicial review was sent to me at 3.16 pm this afternoon. Ministers' statements are usually sent in sufficient time to allow MSPs to read them over and scrutinise them before arriving in the chamber. Sending a statement through four minutes before business is scheduled to begin is discourteous to elected members in the Parliament.

Can the Presiding Officer assist me in understanding why the Government is withholding statements from MSPs until the last minute? Does she believe that that is good practice, given that MSPs are restricted from being able to do their job in holding the Government to account?

The Deputy Presiding Officer (Annabelle Ewing): I thank Ms Gallacher for her point of order. In terms of the guidance from the Presiding Officer, the provision of statements in due time is very important and is a mark of the Government showing courtesy and respect to individual members. Vis-à-vis the specifics of this case, I advise Ms Gallacher that the Presiding Officer, Alison Johnstone, who will take the chair for the next item of business, will address that issue further. Thank you.

Section 35 Order Judicial Review

15:28

The Presiding Officer (Alison Johnstone):

The next item of business is a statement by Shirley-Anne Somerville on the Scottish Government's response to the section 35 order judicial review. Members will be aware that some of the content of the statement is in the public domain following media coverage. I have received a letter of apology from the Deputy First Minister, and it is appropriate that an apology is made to the chamber—[*Interruption.*] Members, I would be grateful if I could make my remarks.

I have received a letter of apology from the Deputy First Minister, and it is appropriate that an apology is made to the chamber. Ministers are answerable and accountable to the Parliament for their actions in their ministerial capacities, and it is essential that members, as elected representatives of the people of Scotland, have the first opportunity to hold ministers to account. For that reason, announcements must be made here first.

Having considered the content of the statement, I consider it important that I allow it to go ahead in part. I invite the Cabinet Secretary for Social Justice to focus on those matters that are not already in the public domain. The cabinet secretary will take questions at the end of her statement, so there should be no interventions or interruptions.

15:29

The Cabinet Secretary for Social Justice (Shirley-Anne Somerville):

Before I begin my statement, let me respond to your comments, Presiding Officer. Media speculation on the Government's decision in relation to the section 35 order is deeply disappointing and regrettable. I am aware that the Deputy First Minister responded to direct questions that were put to her and, although she did not confirm or deny whether the Scottish Government intended to appeal the decision, she has recognised that the Government's position was inferred from the comments that she made. She in no way meant to pre-empt the statement today, and I know that she has written to you to apologise for the comments that she made in response to the direct questions that were put to her in interviews on the budget.

I would also like to apologise to you and the chamber. The discussions between me and your office, Presiding Officer, led to the late arrival of the statement with Opposition spokespeople, for which I genuinely apologise.

I turn to my reduced statement. One year ago, this Parliament passed the Gender Recognition Reform (Scotland) Bill after much discussion and careful consideration. Not everyone agreed with the bill—some strongly opposed it—but the will of the Parliament was clear: two-thirds of members voted to pass the bill, with members of all parties voting in favour. However, within four weeks, the Secretary of State for Scotland blocked its submission for royal assent with the first-ever use of a section 35 order. The Scottish ministers petitioned for judicial review, as it was clear to us that allowing that unprecedented veto over a decision of this Parliament to go unchallenged would undermine Holyrood's democratic will and, by extension, the will of the people whom we are sent here to represent.

Let me be absolutely clear that the Scottish Government remains committed to supporting and empowering the LGBTQI+ community, including trans people. We will continue to build on our work across Government to strengthen that. We work closely with the LGBTQI+ stakeholder group and third sector organisations to ensure that the voices of those with lived experience help to improve outcomes for those communities. We are also delivering the non-binary equality action plan to improve conditions for the non-binary community in Scotland. The plan includes actions that are already under way, such as meaningfully including non-binary people in decision making.

We remain committed to consulting on a bill on ending conversion practices in Scotland for both sexual orientation and gender identity, and detailed proposals for legislative change will be published early in the new year. Conversion practices that aim to change or suppress a person's sexual orientation or gender identity are damaging and destructive acts that violate the human rights of those who undergo them.

We remain committed to our work with NHS Scotland to improve access to and delivery of gender identity healthcare. We are working closely with people with lived experience, organisations that represent trans people and NHS Scotland to implement the actions in the "NHS gender identity services: strategic action framework 2022-2024", which was published in 2021.

We have established a national gender identity healthcare reference group and commissioned a range of work, including robust collation and reporting of waiting times, a transgender healthcare knowledge and skills framework with training opportunities for NHS Scotland staff, a programme of research on long-term health outcomes for people who access gender identity healthcare, and the development of national standards for accessing and delivery of gender identity healthcare. That work is well under way.

We are also delivering the recommendations of the LGBTI inclusive education working group. The implementation group has, in partnership with the Convention of Scottish Local Authorities, promoted effective delivery of LGBTI inclusive education in all Scottish schools and engaged with young people to seek their views and experience, and it is delivering improved learning environments for all children and young people.

Before the end of the parliamentary year, we will introduce a new human rights bill for Scotland.

I turn to the Gender Recognition Reform (Scotland) Bill specifically. The bill's reforms remain the Government's policy and, as we can see from the cross-party support for the bill, they remain what this Parliament would like to see enacted. However, the United Kingdom Government's intervention means that the bill cannot proceed to royal assent. It remains a bill that has been passed by the majority of this Parliament and we will not be withdrawing it.

There is a strong indication that any divergence of approach would be unacceptable to the UK Government, as Alister Jack stated in the Westminster Parliament:

"In short, two different regimes create adverse effects."—
[*Official Report, House of Commons*, 17 January 2023; c 218.]

It is therefore impossible to see how progress can be made, particularly when the rules of this Parliament require that amendments at reconsideration stage are consistent with the bill's general principles as agreed at stage 1.

Nonetheless, our offer is still there. If the current UK Government is willing to work together on the issue, we will happily sit down with it. If a future UK Government is willing, we will work with it so that the section 35 order can be lifted and the bill can progress. It seems clear that the current Government will not do that. It remains to be seen what a future Government will do.

Parliamentary discussion of the Scotland Act 1998 shows that the section 35 power was always intended as a long stop or last resort, and one that would never be needed. It was envisaged that the UK Government should raise issues at an early stage and that the two Governments should seek to resolve them. That is in black and white in the devolution debates in the Westminster Parliament in 1998 and in the memorandum of understanding between the Governments. However, that is not how the Secretary of State for Scotland used the power.

It is the Scottish Government's view that this UK Government and the secretary of state see section 35 as a veto that they can apply to any legislation that is passed by this Parliament that they disagree with. To ignore the memorandum of

understanding sets a very worrying precedent for the democratic powers of this Parliament. Regardless of people's views and opinions on gender recognition, that is a very worrying place for our Parliament to be in.

Due to the intransigence of the current UK Government, I am confident that any repetition of our offer to seek compromise would again be rebuffed. We will therefore focus on working with an incoming UK Government, which we hope will have more respect for devolution and be willing to work together, even when, at times, we disagree.

I recognise that many trans people will be disappointed by that decision. To them, I say this: the Scottish Government will never waver in our commitment to your rights. You deserve to be respected, included and supported. You are not a threat, and you will always be able to live your lives free from prejudice and abuse in the type of Scotland that we all want to see. We will continue to work towards a society that is equal and fair and one where people can live as they are, just as we will continue to protect the democratic powers of this, Scotland's Parliament.

The Presiding Officer: The cabinet secretary will now take questions on the issues that were raised in her statement. I intend to allow about 20 minutes for questions, after which we will move on to the next item of business. I would be grateful if members who wish to ask a question would press their request-to-speak buttons.

Meghan Gallacher (Central Scotland) (Con): I welcome the cabinet secretary's comments on the late arrival of her statement. When Nicola Sturgeon said last year that the debate would be over by Christmas, I do not think that she meant this Christmas. The Scottish Conservatives repeatedly told the Scottish National Party Government that the Gender Recognition Reform (Scotland) Bill was fundamentally flawed. We warned all along that this would happen, but the SNP Government did not listen. Instead, it has spent time and taxpayers' money on a doomed legal battle to revive laws that the majority of the Scottish public do not want—laws that undermine the rights and safety of women, girls and vulnerable young people. Women's groups were ignored throughout the debate, and I am delighted that their hard-fought campaign has been won. However, the debacle leaves the SNP's relationship with the Greens in tatters. I wonder whether Green MSPs will follow through on their threat and quit the Government after the announcement. It might be a lot better for Scotland if they did.

We know that self-identification has been a failed experiment that the Scottish public oppose. Will the cabinet secretary outline whether lessons have been learned? If so, can she reassure

women's groups that their concerns will be listened to in the future to prevent this sorry saga from ever happening again?

Shirley-Anne Somerville: I thank Meghan Gallacher for the way in which she took my apology. I know that she and I have had many cross words, including yesterday, but I appreciate the way in which she has responded to my remarks.

However, in my opinion, there were no amendments at stage 3 that would have prevented the secretary of state from laying a section 35 order. I say that because, as I mentioned in my original statement, he has been clear that he is concerned about a divergence and there being two different systems within the UK. On that basis, it is genuinely difficult to see how we could have a bill that could be approved by this secretary of state in the current UK Government.

When it comes to listening to diverging opinions on the issue, I know and I fully appreciate that, in the Parliament and in wider society, there is a range of opinions on the issue. However, those views were listened to. We may not have agreed with them, but I, the now Deputy First Minister and many ministers held meetings both with groups of people who agreed with the bill and with groups of people who did not, and there were two public consultations.

I would say that the legal judgment is about the use of section 35; it does not take any position on the bill itself or the merits thereof. That is why the Government will not be withdrawing the bill.

Paul O'Kane (West Scotland) (Lab): I, too, voice my disappointment at the late sight of the statement, but I also accept what the cabinet secretary has said in mitigation.

In the six years since the beginning of the process of gender recognition reform in Scotland, Scottish Labour has striven to ensure that the relevant legislation is progressive and that it updates the system while upholding rights and protections for everyone. From the beginning, we sought to engage all parties, including the Government, raising potential issues, offering amendments and seeking repeated assurances that the legislation was secure in law. Indeed, in that regard, the cabinet secretary will recall my amendments that were dealt with this time last year and previous questions that I have raised on issues such as meetings between the Governments about the section 104 process and calls to see the Scottish Government's legal advice.

Ultimately, I recognise that this will be a difficult day for many people. The simplification of the process of gender recognition has not moved forward, and I welcome the cabinet secretary

outlining what further action the Government will take to support trans people in Scotland, which I have been keen to raise each time that we have had the opportunity to discuss the issue. I would appreciate it if the cabinet secretary could further outline how activity across Government will be co-ordinated to measure improvements, particularly in healthcare.

I recognise that many women feel that their concerns have been dismissed and that the debate has become too polarised. The cabinet secretary has essentially said that the bill will remain in limbo after the smoke from the court wrangling between the two Governments clears. I also heard what the cabinet secretary said about people's willingness to try and work together.

Does the cabinet secretary recognise that the court has judged that the bill modifies the law as it applies to reserved matters? What analysis has the Government carried out in the light of those parts of the judgment that could form the basis for any future dialogue with the UK Government on moving the process forward?

Shirley-Anne Somerville: I recognise that the health aspect is an important issue for the trans community. The Government has been working on it for some time and it is important that I recommit the Government to that today.

I have spoken about gender identity services and the strategic action framework, which describes how we are working to improve access to and delivery of national health service gender identity services. Importantly, we will continue to work with those with lived experience to ensure that matters are improved for them, not just in the healthcare sector but in other aspects as well.

Paul O'Kane mentioned the use of section 104 orders. That is a different and technical process to ensure that bills can work correctly. Unfortunately, that would not have got us out of the situation that we are in at the moment. As I said, the secretary of state has made his position clear on having two different systems, but we will continue to work with any Government on that issue.

It is important that, right across Government, we work together to support the trans community in everything that we do, as well as continuing the work on delivering the equally safe strategy, to protect women's rights and to protect them from violence, intimidation and discrimination.

Rona Mackay (Strathkelvin and Bearsden) (SNP): This time last year, the majority of MSPs voted in this chamber to respect the right of trans women and men to self-identify in accordance with their human rights. The intervention of the UK Government to block that has defied the democracy of this Parliament and shattered the trans community. Will the cabinet secretary

expand on the decision that the Government has taken following the legal advice?

Shirley-Anne Somerville: It would be inappropriate for me to discuss the legal advice that the Government received, but I would say that the decision not to appeal that judgment has not been an easy one. We have, of course, reflected on that legal advice and the policy advice, covering a wide range of factors. I know that the legal process and the on-going scrutiny that it brings has taken its toll on the trans community. It is the Government's opinion that the worst possible outcome would be to draw the matter out further and still not be able to have a bill to enact. We want to avoid that outcome, and that is the reason why the Government has come to the decision that it has.

Miles Briggs (Lothian) (Con): When she announced the Scottish Government's intention to take the UK Government to court, eight months ago, the cabinet secretary told Parliament that it was keen to be as transparent as possible on the matter. Now that the Scottish Government has abandoned its legal battle against the UK Government, will it publish its legal advice? Given that the Scottish Government has spent more than £230,000 of taxpayers' money on the failed court action so far, will it also publish the estimates of the costs that would have been incurred if it had challenged the ruling?

Shirley-Anne Somerville: As I have already said, the Scottish Government does not publish its legal advice. Given that the UK Government would not publish its legal advice about the court decision, it is a bit hypocritical for Miles Briggs to suggest that the Scottish Government should publish its legal advice. I am happy to stand to be corrected, but I do not think that he would make the same call on the UK Government.

When it comes to wasting public money on court cases, I say gently to Miles Briggs that the UK Government has spent more than £2 million on a case to ensure that it can—how should I put this? It has spent that money on a case to enable it to take some of the most vulnerable people—*[Interruption.]* Scottish Conservative members might find this funny, but I certainly do not. The UK Government has spent £2 million in an effort to take some of the most vulnerable people in our society—people who have been persecuted right across the world—and send them to Rwanda. It has spent £2 million on that, yet Scottish Conservative members have the hypocrisy to criticise the Scottish Government for standing up for the powers of this Parliament. It is a shame that the Scottish Conservatives have once again shown that they have no interest in defending this Parliament or democracy but are quite happy to defend the Rwanda policy on immigration.

Karen Adam (Banffshire and Buchan Coast) (SNP): First, I want to acknowledge the harm that the arduous process associated with the bill—particularly the UK Government veto and the court ruling—has had on trans people, their families and their friends.

Will the cabinet secretary update the chamber on the significant impact that the way in which the section 35 order has been used has had on devolution?

Shirley-Anne Somerville: Karen Adam is quite right to point out the impact on the trans community in Scotland and, importantly, the impact on devolution. That is exactly why the Scottish Government took the case in the first place. We recognised that, unfortunately, the UK Government has a record of attempting to undermine devolution. The judgment is about how the section 35 power was used with respect to gender recognition, but it is important that we continue to challenge the use of section 35 orders in the future.

I accept the judgment. I accept that the ability to use section 35 is part of the devolution process, but the way in which it has been used in this case is a worrying precedent for anyone who is genuinely interested in Scottish democracy. There is an emerging pattern of interference. For example, although there were no deliberate breaches of the Sewel convention for the first 20 years of devolution, it has been breached 11 times since 2018. That is what happens when power is unfettered. That is why we will continue to challenge the UK Government, if we choose to do so, in the future in relation to any use of a section 35 order.

Claire Baker (Mid Scotland and Fife) (Lab): A year on from the passing of the Gender Recognition Reform (Scotland) Bill, what we have is a sorry and salutary tale for the Scottish Government. It needs to accept and reflect on its level of responsibility, not just for that failed piece of legislation but for how its actions influence wider discussion on a complex and sensitive issue.

In her discussion of upcoming work, the cabinet secretary did not refer to the upcoming final report of the Cass review. What plans is the Scottish Government making to respond to that report, which is due in the new year? Is the national gender identity healthcare reference group considering the delivery of gender identity healthcare for children and young people?

Shirley-Anne Somerville: In relation to the section 35 order and the judgment, we all need to reflect on how this Parliament is treated. Regardless of people's views on gender recognition, there is an on-going issue over how section 35 has been used. Yes, the Government

will reflect, and I suggest that it is time for reflection for us all on this.

On the Cass review, the member will be aware that the on-going findings of the Cass review and their implementation by NHS England are being closely considered by the Scottish Government and NHS Scotland. I would be happy to get the minister who is more deeply involved in that issue to write to the member on the specifics.

John Mason (Glasgow Shettleston) (SNP): The cabinet secretary knows that I was and am opposed to the bill, but Westminster should not be interfering in what is, rightly, Scotland's business. Is the cabinet secretary concerned that future UK Governments might use a veto just because they do not like our legislation?

Shirley-Anne Somerville: Yes. The bill is an example, it is fair to say, where the member and I have completely opposing views. However, he is quite right to point to the significance of the section 35 order to devolution. The issue was, rightly, also focused on by Mark Drakeford, who said that the UK Government's decision to use powers that have never been used in the history of devolution was "a very dangerous moment", which is the point that I was trying to make to Claire Baker earlier.

This is a turning point in devolution, and it is up to us all to reflect on what we do about that. The Government has taken the matter to court. As I said, we absolutely accept the judgment of the court and will not appeal. However, I think that the UK Government has a worrying habit, if I can put it that way, of interfering in devolution, and I fear that that habit may increase in the future.

Alex Cole-Hamilton (Edinburgh Western) (LD): The bill commanded support from members of all five parties across the chamber because it sought to allow trans people to be recognised for who they are without trauma in the legal architecture that underpins their lives.

Many trans people suffer discrimination and stigma every day. The process will have harmed them further and left them feeling let down and exposed. That is a great shame, and a humane approach to gender recognition is a problem that remains unresolved. They now look to us to make meaningful progress against the other barriers that stand between them and equality, such as a ban on conversion therapy and ready access to trans-inclusive healthcare. The cabinet secretary touched on some of those issues in her remarks, but, to reassure those who are watching us today and who are hurting, will she commit to a meaningful timeline of action and regular reporting to the Parliament on each of those areas?

Shirley-Anne Somerville: Absolutely. Alex Cole-Hamilton is right to begin his remarks by

saying that trans people simply want to be accepted for who they are. We should be able to say that about all members of our society. I appreciate that they feel let down, exposed and vulnerable. There is a responsibility, which I feel very heavily on me and my Government, to ensure that we move forward on the issue with whatever we can do across Government.

We have already discussed healthcare, but I will give an example on conversion therapy. We fully intended to have the consultation on the ending conversion practices bill out by the end of the year, but we listened to the concerns of stakeholders—including faith groups and LGBT groups—and the fact that they wished that to happen in the new year, in particular because people might feel particularly vulnerable over Christmas and new year when support services might not be available. That consultation is ready to be launched at the beginning of the new year, when the Parliament returns. Alex Cole-Hamilton has my absolute assurance that the minister will take that forward in due course. Either she or I would be happy to meet him to discuss it in further detail.

The Presiding Officer: We have much interest. I would be grateful if we could have short and concise questions and responses in order to get as many members in as possible.

Evelyn Tweed (Stirling) (SNP): Following the court's decision on the use of section 35 to block the Gender Recognition Reform (Scotland) Bill, does the cabinet secretary agree that devolution is fundamentally flawed and that only full independence can ensure that Scotland's democratic decisions are implemented? *[Interruption.]*

Shirley-Anne Somerville: I heard groans following that question—*[Interruption.]*—and I can hear more groans now, Presiding Officer.

The Presiding Officer: Let us hear the cabinet secretary.

Shirley-Anne Somerville: Let me be very clear: if the Scottish Conservatives do not want the conclusion to be that we need independence to ensure that the will of the Scottish Parliament is recognised, they must also reflect on the fact that section 35 is part of the devolutionary set-up, but how it is used is very important to how this Parliament feels that it is being treated and the respect that it is given.

Anyone who is interested in getting devolution to work—which, allegedly, the Scottish Conservatives are—would also wish to reflect on the use of section 35 in the future. Prove us wrong. Prove that there is a way to get devolution to work. Until then, Evelyn Tweed is quite correct

that only with independence will we have Scotland's democratic decisions implemented.

Russell Findlay (West Scotland) (Con): Women across Scotland were told that their views were not valid, so I applaud their hard-won victory, with the SNP's dangerous Gender Recognition Reform (Scotland) Bill in the bin where it belongs.

I would like the cabinet secretary to explain why female prisoners are still being used as guinea pigs in the SNP's gender self-identification experiment. Why should the most vulnerable women in society be told to accept that a rapist such as Isla Bryson or any other male-bodied sex criminal is a woman?

Shirley-Anne Somerville: Once again, for the avoidance of doubt, I make clear that the bill is not in the bin; it awaits an incoming UK Government that has more respect for devolution.

I point out to Russell Findlay that the examples that he gives are under a gender recognition process that has been in place throughout the UK for many years. What has happened in the Scottish Prison Service has nothing to do with gender recognition certificates, and he should not conflate the issues.

Russell Findlay will also be well aware of the recent Scottish Prison Service policy on the issue. I would suggest that he looks at that in detail, if he is genuinely interested in the safety of women and transgender prisoners.

Maggie Chapman (North East Scotland) (Green): The court ruling 12 days ago came as a bitter blow to trans people across Scotland. I know that many of them are feeling very hurt and vulnerable right now, and they now must wait indefinitely for the reforms that the legislation that we passed here overwhelmingly 12 months ago would have delivered.

Trans people are targets just because of who they are. Given that their lives have been and continue to be weaponised as part of a toxic culture war, what assurances can the cabinet secretary give to trans people who need some hope and clear demonstration that they matter and that we value them?

Shirley-Anne Somerville: I put on record my thanks to Maggie Chapman for all her work on the issue over the years. I look forward to continuing to work with her as we move forward to protect and enhance trans rights.

It is very important that we provide the reassurances that she has asked for. I hope that my words today in some way reflect my concern about the trans community's vulnerability at this difficult time and the Government's commitment on the issue.

Ash Regan (Edinburgh Eastern) (Alba): Last year, the Scottish Government told us that the bill would make just a small administrative change; that it would grant no new rights; that it would not interfere with the operation of the Equality Act 2010; that safeguards were not required; and that there was no evidence of harm to women. All that was wrong.

This sorry and sad episode created a culture in which women were dismissed as transphobes and bigots. The Scottish Government failed in its duty to analyse the potential impact on women, and it misled Parliament. It must provide clarity on next steps, as the bill must never be implemented.

I renew my calls for the Government to apologise, as its conduct has fatally undermined public trust in Government, and it has no one to blame for that but itself.

Shirley-Anne Somerville: I say to Ash Regan that, although the Scottish Government introduced the bill, it was passed by the Parliament. It is now the Parliament's bill, and the Government will protect the will of the Parliament in any way that we can.

I also say to Ash Regan, as I have said before, that the judgment was about the use of section 35 with respect to the Gender Recognition Reform (Scotland) Bill. It did not discuss the merits of the bill itself, and it is very important that those two items are not conflated.

Fulton MacGregor (Coatbridge and Chryston) (SNP): I fully welcome the Scottish Government's on-going commitment to LGBTQ people and hope that the trans community will be offered the relevant support in the days and weeks following these events.

Will the cabinet secretary share further information on the reason behind the Government's decision not to appeal?

Shirley-Anne Somerville: As I have laid out already in some of my answers, the decision was one for which the Government had to take a view of not just the legal advice but the policy advice that we had. Reflecting on that advice and on our view that carrying on the process would impact negatively on the trans community, we feared that, because of the Secretary of State for Scotland's intransigence on the issue, the bill would still not be able to pass. It is for those reasons that we chose not to appeal.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): The Scottish Conservatives warned time and again that the SNP-Green gender self-ID bill threatened women's single-sex spaces, and that was proven by the case of Isla Bryson. [*Interruption.*] The bill would have

impacted on equality laws right across the United Kingdom.

The Presiding Officer: Members!

Rachael Hamilton: If the SNP was so caring about the impact of its GRR bill on vulnerable women, why did it vote against those key amendments?

Shirley-Anne Somerville: I fully respect that Rachael Hamilton and I have very different opinions on the bill. I appreciate that there are different views on the bill, but, once again, I am very firm in my opinion that we can improve the rights of trans people—one of the most vulnerable and marginalised groups in our society—while ensuring that we protect women's rights, as well.

I would make the point that there were no amendments lodged at stage 3 that would have prevented a section 35—even if the Government had accepted all the amendments, that would not have been prevented. I say that based on the secretary of state firmly stating—he said this in the House of Commons—that he does not believe in having two systems within the United Kingdom. That is where we run into an intractable problem.

That is why we will continue to support trans rights, but we will also always support women's rights and protect women from discrimination.

Michelle Thomson (Falkirk East) (SNP): Regardless of the various views on the Gender Recognition Reform (Scotland) Bill, I think that we can all agree that it did not quite work out as intended. Indeed, it has soured relationships across multiple groups in our society.

Our job is simple: to scrutinise and pass good and competent law at best value to the public purse. With that in mind, will the cabinet secretary outline what specific review processes the Scottish Government plans to undertake on its role in this matter and the outcome that we have today?

Shirley-Anne Somerville: Again, I think that we are in danger of conflating a judgment that was based on the use of a section 35 order with the merits of the Gender Recognition Reform (Scotland) Bill. The bill, as it was passed by the vast majority of this Parliament, remains a bill that this Government would like to see implemented. We will, of course, reflect on the judgment, but, very importantly, we will also reflect on the use of the section 35 order and how that impacts on the devolutionary process, because that is what the judgment was all about.

Douglas Ross (Highlands and Islands) (Con): The cabinet secretary has spoken a lot today about diverging views and having respect. Many women and girls opposed the SNP-Green legislation in order to protect their rights and safety. Therefore, on behalf of the Scottish

Government, will she thank them for everything that they did during the passage of the bill to stand up for those freedoms?

Shirley-Anne Somerville: There were obviously diverging views on the bill among the Scottish Conservatives, as some members of Douglas Ross's group voted for it, although I accept that the majority of them voted against. I have no doubt that every single member of this Parliament respects the rights of women and their need for protection against discrimination and violence. The Government and, I think, the Parliament have already demonstrated that that is the case on many occasions in the past, and they will continue to do so in the future.

The Presiding Officer: That concludes the ministerial statement.

Sue Webber (Lothian) (Con): On a point of order, Presiding Officer. Throughout the cabinet secretary's answers to questions on the statement, she referred to the fact that there were no amendments lodged at stage 3 that would not have resulted in divergence from United Kingdom legislation. There were such amendments, and they were in my name.

The Presiding Officer: I thank Ms Webber for her contribution. I do not believe that it is a point of order, but it is on the record.

We will move on to the next item of business. I will allow a couple of minutes for the front bench members to organise themselves.

Trusts and Succession (Scotland) Bill: Stage 3

16:06

The Deputy Presiding Officer (Liam McArthur): The next item of business is stage 3 proceedings on the Trusts and Succession (Scotland) Bill. In dealing with the amendments, members should have the bill as amended at stage 2, which is SP bill 21A, the marshalled list, the supplement to the marshalled list and the revised groupings of amendments.

The division bell will sound and proceedings will be suspended for around five minutes for the first division of the stage 3 proceedings. The period of voting for the first division will be 45 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate. Members who wish to speak in the debate on any group of amendments should press their request-to-speak button—or, if they are joining us remotely, type RTS in the chat function—as soon as possible after I call the group.

Members should now refer to the marshalled list of—*[Interruption.]* Anyone who was not paying attention is now paying attention. Members should now refer to the marshalled list of amendments.

Section 5—Resignation of trustee

The Deputy Presiding Officer: Group 1 is on the resignation and removal of trustees. Amendment 1, in the name of the minister, is grouped with amendments 2, 2A, 3 and 4.

The Minister for Victims and Community Safety (Siobhian Brown): The amended section 5 provides that a sole trustee must have

“accepted office in writing”

or otherwise have

“acted in a way which indicates that they have accepted office”.

I understand that the policy intention behind the stage 2 amendment was to make sure that the office of sole trustee is not forced upon someone against their wishes. Amendment 1 provides flexibility in the way that the office can be accepted but does not fundamentally alter the policy intention. A sole trustee would still have to accept office, but that could be done verbally, in writing or by some other means.

Moving on, I support Stuart McMillan’s amendments 2 and 2A. Amendment 2, if amended by amendment 2A, will mean that, where two or more professional trustees have been appointed who are each no longer a member of the regulated profession or are not entitled to practise, when it

comes to a decision to remove either of them, neither of those trustees is to be regarded as able to make the decision. That will prevent a potential and undesirable impasse.

I understand that Mr McMillan, in the light of comments from the Law Society of Scotland, has decided not to proceed with the provisions in amendment 2 that would have built on the stage 2 amendment that I lodged that allowed co-trustees to remove one of their own where the trustee being removed has been appointed in their capacity as a member of the profession but has ceased to be a member of that profession. The relevant provisions in amendment 2 would have extended that to professional trustees who provide their services through a company or partnership. I understand that, although the Law Society agrees with the principle, it has concerns about potential unintended consequences. It is therefore sensible to take more time to look at the issue, and I am happy to continue to work with Mr McMillan to consider how further changes might be made to other legislation.

Amendments 3 and 4 are in my name. A person who has been removed from office as a trustee may require to take certain actions after being removed. That might include updating information that is held in statutory registers, and failure to do so may result in criminal liability. Although I believe that, in the overwhelming majority of cases, trustees would take the sensible action of informing removed trustees of their date of removal, I understand that that would not always be the case. For example, in a small family trust, relationships between trustees might be so strained that what appears to be sensible and practical to us would not be to them.

My amendments provide a clear statutory statement that will be of assistance to professional and non-professional trustees. When a trustee is removed from office, they must be given notice of their removal as soon as is reasonably practicable after the decision is made.

I ask members to support the amendments in the group.

I move amendment 1.

Stuart McMillan (Greenock and Inverclyde) (SNP): First, I want to speak about amendments 2 and 2A, in my name, which are hand-out amendments from the Scottish Government following my discussions with it about an amendment that I had proposed. I thank the Scottish Government for working with me on the issue.

Amendment 2A came about because of an issue that was raised with me by constituents. The existing provision provides a loophole in relation to a scenario in which a trust appoints three trustees

but two of them could be removed under section 7(1) because of their being

“incapable ... convicted of an offence involving dishonesty ... sentenced to imprisonment on conviction of an offence, or ... imprisoned for contempt of court or for not having paid a fine”.

When it comes to a decision to remove either trustee, amendment 2 states:

“neither ... of those trustees are ... to be regarded as able to make a decision”.

The majority for making a decision would therefore be one, which would help to maintain the integrity of any trust.

Proposed section 7(1D) goes further, as the minister touched on, as did members of the regulated profession. On Friday, the Law Society contacted the Scottish Government to highlight two potential unintended consequences of the provision. That is why I lodged manuscript amendment 2A, which I am pleased the Presiding Officer agreed to accept.

Martin Whitfield (South Scotland) (Lab): We heard from the minister who is guiding the bill through the Parliament that the issue will be looked at. Is Mr McMillan aware of any specific legislation that might be introduced over the next few years of this parliamentary session in which any changes could be encompassed?

Stuart McMillan: My discussions with the Government have centred around the Regulation of Legal Services (Scotland) Bill, which is currently being considered by the Parliament. I will be working with the Government on that bill to try to tighten the provision in that regard.

The Law Society advised that the provision in proposed section 7(1D) could be used inappropriately, that it would act as a deterrent to the use of corporate trustee bodies and that that would have an economic impact. I do not fully agree with the Law Society’s considerations, but I respect its opinion. I was therefore content to attempt to go partway to fixing the issue, rather than not trying at all. That is why I lodged the manuscript amendment.

I therefore ask members to support amendment 2, as amended by amendment 2A.

Oliver Mundell (Dumfriesshire) (Con): In this debate on the first group of amendments, I put on record that the Scottish Conservatives will support all the stage 3 amendments. I recognise that the minister has listened to stakeholders and the Delegated Powers and Law Reform Committee in order to strengthen the bill at stages 2 and 3. Following Stuart McMillan’s explanation for the addition of manuscript amendment 2A, we are content that the amendments that are before us

represent the views of stakeholders and strike the right balance.

I therefore do not plan to make any further comments on the other amendments, but I will make some broader points in the main debate. I understand that my colleague Jeremy Balfour might have further comments on the amendments that he continues to take an interest in.

16:15

The Deputy Presiding Officer: I call the minister to wind up. Do you have anything to add, minister?

Siobhian Brown: No, I have nothing to add.

Amendment 1 agreed to.

Section 7—Removal of trustee by co-trustees

Amendment 2 moved—[Stuart McMillan].

Amendment 2A moved—[Stuart McMillan]—and agreed to.

Amendment 2, as amended, agreed to.

Amendment 3 moved—[Siobhian Brown]—and agreed to.

Section 8—Removal of trustee by beneficiaries

Amendment 4 moved—[Siobhian Brown]—and agreed to.

Section 12—Making of decision

The Deputy Presiding Officer: Group 2 is on minor and technical changes. Amendment 5, in the name of the minister, is grouped with amendments 6 and 14 to 20.

Siobhian Brown: Moved, Presiding Officer.

The Deputy Presiding Officer: Do you not wish to speak to the amendments?

Siobhian Brown: I am sorry. Are we moving on to the next group?

The Deputy Presiding Officer: We are moving on to group 2, minister.

Siobhian Brown: My apologies, Presiding Officer. I am sorry—it is my first stage 3.

The Deputy Presiding Officer: You have somewhere that you need to be, I think.

Siobhian Brown: Yes.

Section 12 is generally a default section that applies to a trust unless the trust deed provides otherwise. At stage 2, my amendment to this section was accepted. It provided that, in a public

trust, a trustee should not be disqualified from taking part in the decision-making process because they are part of the section of the public that the decision is intended to benefit. Stakeholders have since pointed out that public trusts may be intended to benefit the public at large rather than a particular section of it. My amendments 5 and 6 take that into account and clarify the matter. Those amendments would not allow a trustee to participate in decisions in which they have a particular interest that is specific to them as an individual.

Amendments 14 and 15 pick up on a concern that was raised at committee at stage 2, amendments on which were voted on but defeated. Having discussed the matter further with the Law Society and the Scottish Law Commission, I decided to lodge amendments 14 and 15, which are slightly adjusted from those that were lodged at stage 2. My view is that the amendments deal with the issue that was identified by the Law Society without unnecessarily widening the protection that section 30 offers to beneficiaries.

Section 32 provides that, as a default provision, a trustee is personally liable for any loss to a beneficiary that arises from the trustee's own acts or omissions or for any loss to a beneficiary that arises from a co-trustee's breach of trust or breach of fiduciary duty in certain circumstances. Some questions have been asked about how section 32 interacts with other sections of the bill on trustee liability, and I think that that matter can be usefully clarified. Therefore, amendments 16 and 17 make it clear that a trustee's personal liability under section 32 is to be read together with the bill as a whole. Section 32 will not impose an unqualified personal liability for losses that are sustained by a beneficiary as a result of a trustee's actions or omission.

Amendment 18 is a minor amendment to ensure consistency of terms used in certain sections of the bill imposing personal liability on trustees. In some sections, the bill has been drafted using the term "private property"; in others, the term "personal property" is used. Amendment 18 means that the term "private property" will be used throughout the bill.

Amendment 19 replicates changes that were made to section 35(3) at stage 2 so that the bill is consistent.

Finally, amendment 20 is a minor amendment to ensure consistency in the drafting. Although the amendment substitutes some wording, it does not affect the underlying policy intention.

I ask the chamber to support the amendments in the group.

I move amendment 5.

Amendment 5 agreed to.

Amendment 6 moved—[Siobhian Brown]—and agreed to.

Section 17B—Charitable trusts: sale of property

The Deputy Presiding Officer: Group 3 is on the sale of heritable properties to charities. Amendment 7, in the name of the minister, is grouped with amendments 8 to 12. I call the minister to move amendment 7 and to speak to all the other amendments in the group.

Siobhian Brown: Section 17B was added by Jeremy Balfour's amendment 47 at stage 2. That amendment allows a charitable trust to sell heritable property—such as an old church building or a town hall—at less than best value if the purchaser is another charitable trust. At stage 2, I expressed my concerns about the drafting of section 17B and the concerns of the Office of the Scottish Charity Regulator.

Amendments 7 to 10 and 12, in my name, are an attempt to bring the section more into line with similar provisions in the bill on trust law and to link the section more closely to charity law. First, my amendments make sure that the charitable trust selling the property must have the power to do so and that charity trustees must have regard to their statutory duties under charity legislation. That will help to prevent situations where charitable trustees sell heritable property that is essential to delivering the trust's purposes.

Those amendments also seek to widen the scope of section 17B so that all kinds of charities in Scotland and elsewhere in the UK can benefit from Jeremy Balfour's amendment. Currently, the purchasing charity must take the legal form of a trust, but only 12 per cent of registered charities in Scotland do so at present. My amendments will allow a charity registered in Scotland or elsewhere in the UK, taking any legal form, to benefit from the section. I understand that charities often work across different jurisdictions in the UK, and this provision will be of benefit to them. The amendments also include a power to broaden the provision out in the future.

Amendment 11 is a transitional amendment that applies section 17B to all charitable trusts created after the section comes into effect and is without prejudice to any current common law position.

I pay my thanks to Jeremy Balfour for engaging constructively with me on this issue, and I ask the chamber to support all the amendments in the group.

I move amendment 7.

The Deputy Presiding Officer: No other members have asked to participate in the debate.

Minister, I invite you to wind up. Is there anything else that you wish to add?

Siobhian Brown: No, thank you.

Amendment 7 agreed to.

The Deputy Presiding Officer: I invite the minister to move amendments 8 to 12 en bloc.

Amendments 8 to 12 moved—[Siobhian Brown].

The Deputy Presiding Officer: Does any member object to a single question being put on amendments 8 to 12? As no member objects, the question is that amendments 8 to 12 be agreed to.

Amendments 8 to 12 agreed to.

Section 19—Appointment of nominees

The Deputy Presiding Officer: Group 4 is titled “Nominees: regulations about what constitutes a good cause (sub-custodians)”. Amendment 13, in the name of the minister, is the only amendment in the group. I invite the minister to speak to and move amendment 13.

Siobhian Brown: One specific issue that surfaced during stage 1 proceedings concerned the use of nominees and sub-custodians in certain situations. Amendment 13 is a response to the view that section 19, as drafted, might not go far enough in capturing the ways in which trusts are used in the financial services sector. That is an extremely technical matter involving financial regulatory arrangements and how trustees can use (a) nominee custody structures and (b) sub-custodians.

My officials have been discussing the matter, but it has not been possible to reach a conclusion in time for stage 3. Clarification may nevertheless help to alleviate concerns that trustees will not be complying with trust law when they use custodian arrangements in practice. Accordingly, amendment 13 introduces a narrow power to allow Scottish ministers, by regulations, to

“specify particular circumstances which may constitute a good cause for the purpose of”

section 19(8).

Martin Whitfield: Are any current circumstances being considered for regulation in the near future?

Siobhian Brown: We could look at that in the future, in future legislation. At the moment, because we could not get it in time for stage 3, this is a sensible approach that allows us to address the situation that was raised by the committee. If we had done nothing, it would have been a lost opportunity.

Negative procedure is appropriate for making the regulations, as they will allow illustrative

provision to be provided only as an example of what the court could allow in connection with the delegation of trustee functions.

I move amendment 13.

Amendment 13 agreed to.

Section 30—Provision purporting to limit liability for, or indemnify for, breach of fiduciary duty

Amendments 14 and 15 moved—[Siobhian Brown]—and agreed to.

Section 32—Trustees’ personal liability for beneficiary’s loss

Amendments 16 and 17 moved—[Siobhian Brown]—and agreed to.

Section 35—Damages for loss resulting from trustee’s act or omission in ordinary course of administration

Amendment 18 moved—[Siobhian Brown]—and agreed to.

Section 38—Trustees’ liability in relation to certain obligations

Amendment 19 moved—[Siobhian Brown]—and agreed to.

Section 41—Abolition of restrictions on accumulation and on creation of future interests

Amendment 20 moved—[Siobhian Brown]—and agreed to.

Section 49—Protectors

The Deputy Presiding Officer: Group 5 is on protectors. Amendment 21, in the name of the minister, is the only amendment in the group.

Siobhian Brown: A protector’s function is to ensure that the trustee of a trust is appropriately discharging their duties. Although it is almost certainly possible to provide for a protector under Scots law currently, the bill provides legal certainty on the matter.

Section 49 of the bill also provides a statutory list of example powers that a truster may confer upon protectors. Ultimately, it will be up to the truster to decide whether any particular power is conferred on any particular protector, which will depend on the individual circumstances of each case.

Having considered the drafting of the list of example powers further, and having heard further from stakeholders, I have concluded that some of the powers could be stated differently so that they

are more in line with the protector's role. Amendment 21 does that. It removes the illustrative references to protectors directing trustees as to who may enjoy a beneficial interest and, in its place, provides a more consistent approach to the list of illustrative powers that may be conferred on protectors.

I move amendment 21.

Amendment 21 agreed to.

Section 61—Alteration of trust purposes on material change in circumstances

The Deputy Presiding Officer: Group 6 is titled "Trusts which may have their purposes altered". Amendment 22, in the name of the minister, is the only amendment in the group.

Siobhian Brown: Section 61 is about the alteration of trust purposes and attempts to balance the truster's wishes against the wishes of beneficiaries before an application can be made to the court to alter trust purposes. When the bill was introduced, the section did not apply to private purpose trusts or public trusts, but, after consultation with the Scottish Law Commission about the policy behind the section, it became clear that it should apply to private purpose trusts.

When the section was amended at stage 2, the exception for public trusts was removed unintentionally. That is contrary to the intention behind the section, which is that the trust purposes of public trusts should not be altered by way of an application under section 61. Amendment 22 resolves both of those issues.

I move amendment 22.

Amendment 22 agreed to.

The Deputy Presiding Officer: That ends the consideration of amendments.

As members will be aware, at this point in the proceedings the Presiding Officer is required, under standing orders, to decide whether, in her view, any provision of the bill relates to a protected subject matter—that is, whether it modifies the electoral system and franchise for Scottish parliamentary elections. In the Presiding Officer's view, no provision of the Trusts and Succession (Scotland) Bill relates to a protected subject matter. Therefore, the bill does not require a supermajority to be approved at stage 3.

Before we move to the debate on the bill, I call Angela Constance to signify Crown consent to the bill.

The Cabinet Secretary for Justice and Home Affairs (Angela Constance): Presiding Officer, for the purposes of rule 9.11 of the standing orders, I advise Parliament that His Majesty,

having been informed of the purport of the Trusts and Succession (Scotland) Bill, has consented to place his prerogative and interests, in so far as they are affected by the bill, at the disposal of the Parliament for the purposes of the bill.

Trusts and Succession (Scotland) Bill

The Deputy Presiding Officer (Liam McArthur): The next item of business is a debate on motion S6M-11699, in the name of Siobhian Brown, on the Trusts and Succession (Scotland) Bill.

16:30

The Minister for Victims and Community Safety (Siobhian Brown): I thank the members of the Delegated Powers and Law Reform Committee for their thoughtful and helpful consideration of the Trusts and Succession (Scotland) Bill. I very much welcome their thorough scrutiny of the bill. I also thank the committee clerks for all their hard work and the stakeholders who contributed views and their time as part of parliamentary scrutiny.

This is a Scottish Law Commission bill, so I thank the commission for the considerable work that went into this law reform project. In particular, I thank Lord Drummond Young, who, even though he is no longer chair of the commission, has given his time generously. I know that he is in the public gallery, along with Lady Paton and Charles Garland from the commission.

The Scottish Government has had useful engagement with a number of stakeholders. My officials have met the Law Society of Scotland on several occasions, and they have met the Society of Trust and Estate Practitioners Scotland and the Office of the Scottish Charity Regulator. Those organisations' practical experience has been especially important in helping me to reach policy decisions on the content of the bill.

Throughout the process, I have listened carefully to the views that have been expressed to the Scottish Parliament and to the committee's views, and the bill has been amended as a result. I was happy to lodge stage 2 amendments to implement some of the committee's thoughtful recommendations, particularly on increasing the safeguards for sole trustees, which was a particular concern that the committee raised after hearing evidence directly from trustees. I have also been pleased to support stage 2 amendments that committee members lodged, and I had helpful engagement with Jeremy Balfour on, for example, his amendment that extended—indeed, doubled—the time during which a cohabitant has the right to make a claim on the deceased cohabitant's estate when there is no will. Today, we have agreed adjustments to other provisions to ensure that they work as intended.

The bill addresses important issues when someone has died without leaving a will, which is, unfortunately, a relatively common occurrence.

I will briefly remind the chamber of some of the bill's key provisions and what they are intended to achieve. Most of the bill's provisions relate to the law of trusts and can be found in part 1. The bill makes important changes to trustees' powers. The current legislation, which dates back to 1921, no longer gives trustees the powers that they need to administer a trust effectively. That makes it difficult for trustees to comply with their paramount duty, which is to give effect to the trust's purposes in the best interests of the beneficiaries.

An important reform is the conferral of a default general power, which replaces what is an inflexible, complex and restrictive statutory list of powers. As a result, trustees will be able to have all the powers that a competent adult has in relation to their own property.

The bill reforms the duties that are placed on trustees. Those changes better reflect the need for transparency in modern-day trusts. For example, the bill clarifies what information a beneficiary is entitled to expect or request from the trustees. The trustees' information duties go to the heart of trust law, and the reforms enable beneficiaries to exercise their power to hold trustees to account.

The bill also makes a number of important changes to how trusts are administered, how trustees are appointed or removed and how trustees resign. Many members in the chamber may be aware—perhaps through their constituents—of the fallout from the failure of McClure Solicitors. I am pleased that, collectively, we have been able to make amendments at stages 2 and 3 to respond to the significant practical difficulties that co-trustees may have in removing a trustee who was appointed as a trustee in their professional capacity and is no longer a member of their profession.

The bill cannot resolve the wider issues that the collapse of McClure's has caused. I know that Stuart McMillan has a keen interest in the matter, and we recently met to discuss what could be done to help those who have found themselves caught up in the situation. I welcome the engagement with him, and I look forward to working constructively with him on it.

Part 2 deals with reforms to the law of intestate succession. The bill implements a Scottish Law Commission recommendation of 2009 so that, when a person dies without a will and is survived by a spouse or civil partner but not by children, the spouse or civil partner will inherit the whole of the net intestate estate. When the Scottish Government consulted on that in 2015, there was agreement with the proposal, and the Scottish

Government's response committed to implementing the recommendation.

I am pleased that we have been able to address the issue, which, depending on the composition and size of the estate, has resulted in the bulk of the estate passing to parents or siblings rather than the surviving spouse. That is not what people expect to happen, and the bill will remedy that situation. We have also taken the opportunity to amend section 2 of the Succession (Scotland) Act 2016 to clarify the drafting so that it is not open to any unintended interpretation.

Finally, in respect of reforming the law of succession, I was pleased to lodge stage 2 amendments that addressed the unacceptable prospect of a convicted murderer continuing to act as executor of their victim's estate. There is some uncertainty about the current position on that in Scots law, but the amendments will place it beyond any doubt that an executor who is convicted of, or is being prosecuted for, the murder or culpable homicide of the deceased will be regarded as unfit for that office and can be removed by the court, and that a sheriff must refuse any application for appointment as an executor dative in the same circumstances.

Those amendments fulfil a previous commitment that the Scottish Government made. They also implement a recommendation that the committee made, and I hope that they bring the necessary legal certainty to those who are experiencing that difficult situation. I am convinced that the bill will result in reforms to the law that will benefit all those who are involved in trusts.

I move,

That the Parliament agrees that the Trusts and Succession (Scotland) Bill be passed.

16:36

Oliver Mundell (Dumfriesshire) (Con): I am pleased to speak in the debate and to confirm that the Scottish Conservatives will support the bill at decision time. As the minister outlined, this is the first major overhaul of trust law in a century and, having listened to the evidence that has been brought forward, I think that it is clear that this much-needed modernisation will provide clarity and make the law in the area more user friendly.

Although the bill stops short of a full codification of trust law, it has captured the areas on which there is broad consensus. Given that it is a Scottish Law Commission bill that has come through the Delegated Powers and Law Reform Committee, it probably strikes the right balance. I know that, in the stage 1 debate, there was discussion about whether it could have done more on trusts and succession, but the way in which the bill has come to Parliament explains why some

aspects are more modest, as it has sought to be less political and controversial and to move the law forward.

As with a great many areas that the Parliament has responsibility for but that do not always appeal to politicians, such bills can find it difficult to get chamber time, and I welcome the process that is now in place with the DPLR Committee. Obviously, no one ever wishes for more work for themselves, but we have worked well as a committee, and we have a new area of interest.

I have only one outstanding and significant concern about the bill, which is about how public awareness raising will be taken forward. That was a theme of the stage 1 debate. These are significant changes to trust law, and how the changes will be communicated to the smaller charities and organisations and individuals who operate in the space is important. Many of them have been doing the same thing for a long time, and many will likely get updated professional advice after the passage of the bill. The Law Society of Scotland is right to highlight in its briefing that a

“comprehensive publicity and awareness-raising campaign for trustees, their professional advisers and the wider public interacting with trusts”

is essential.

Throughout the passage of the bill, we have seen that this is not always the most interesting area that captures everyone's interest straight away, and I recognise that there is difficulty in getting people to engage. That was the case with some stakeholders and people who work in the area—people do not always have the time or the energy. Sometimes, we think that everybody is watching and listening to every word that is said in the Parliament, and that those in the legal profession pick up on every bill that is passed. I am keen to hear more from the minister about that.

I am sure that unexpected challenges and unintended consequences may arise as a result of the changes, which are significant. In the future, we have to do better at scrutinising the success of legislation that we pass and at evaluating whether it delivers the changes that have been set out.

I could go back through all the things that the bill does, but the minister set that out pretty comprehensively. As I close, I suggest that the Parliament should not wait another century to review the law in this area. Given its significance and central importance—financially and to Scottish society—we should take a bit more interest in it.

I thank all those at the Scottish Law Commission and the many witnesses and organisations who have given their time and energy to get the bill to this point. At times, it must

seem like a thankless task and deeply frustrating when their expertise and legal practice are not given the attention that they deserve. I hope that the passage of the bill—provided that colleagues support it, which I urge them to—shows that the processes work and are worth while. The many reports that the Scottish Law Commission has spent time on now seem to be proceeding with pace.

16:41

Rhoda Grant (Highlands and Islands) (Lab): I thank the committee clerks and all those who have been involved in the bill. This is a technical bill, but it will have real impacts on people's lives. I hope that it will prevent situations such as what happened at McClure Solicitors. McClure went into administration two years ago, and the victims of McClure Solicitors action group held a meeting in the Parliament to raise awareness among MSPs of the serious issues that McClure clients face. Many of them have family protection trusts, wills, lasting powers of attorney and the like. An estimated 100,000 clients were affected, and the vast majority of those people are totally unaware of the issues that stem from McClure going into administration.

Clients who have trusts with McClure Solicitors as trustees often cannot sell assets because the solicitors are still on land registry records. That will result in some properties standing empty for two to five years, which will force families to maintain properties without being able to take action such as selling or renting them. Campaigners for the victims action group highlighted issues with accessing and understanding documents. Many of the clients are elderly, and often their children or close family are left trying to make sense of everything while they have responsibility for looking after elderly parents or—worse—while they are going through a period of grief.

Campaigners spoke of having to pay £750 in administration fees to get McClure's trustees to sign off trusts at the same time as they received letters from solicitors trying to indemnify McClure and its associates from any future legal action. The campaigners' experience highlights the human impact of what happens when trusts are not appropriately administered or managed.

Lessons must be learned and processes must be put in place to ensure that that does not happen again. I hope that the bill will do that, but those who have been impacted by McClure need help now. I ask the Scottish Government to look at the issue, because Police Scotland and the Law Society of Scotland will not get involved, and the Scottish Legal Complaints Commission will not get involved. Someone needs to set up an investigation to ensure that those who are affected

are assisted properly and get the appropriate settlement to their concerns.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): The victims of McClure's state that most people who have been let down by McClure's do not yet know that they are victims and that the situation is vastly underreported. Does Rhoda Grant share my concern that the situation could continue to unravel for years to come? Does she agree that it needs serious attention now?

Rhoda Grant: I absolutely agree with Bob Doris and I pay tribute to him for giving voice to the victims of McClure's and inviting them to Parliament to speak to MSPs. I absolutely agree with his comment and I urge the Scottish Government to act to support those people.

The minister said that the bill will make things better for spouses and civil partners of those who die without a will. It was highlighted that work needed to be carried out on ensuring better protection for cohabittees—people who have not formalised their relationships. With societal changes, that is becoming more and more common. There are people who have been together for a long period, raised families and had grandchildren together but who do not have a will and are not protected in any way.

In that vein, I encourage the Government to ensure that people are aware that they should have wills and a power of attorney. Families need to know what to expect, and they need to be protected when somebody dies. That is not for someone at the end of life—the moment that someone has dependants or is in a relationship with someone who they wish to protect, they need to set those things in order so that their loved ones can better represent their wishes, should the worst happen.

I finish by paying tribute to the Scottish Law Commission. It does a power of valuable work in looking at the law and looking to update it. Much of its work goes unnoticed, and often it does not come before Parliament when it should. It is timely that the bill has come before us, but more of the SLC's work needs to be looked at. As a Parliament, we need to look at how we deal with the SLC's work to ensure that it gets the attention that it deserves and that our law remains up to date.

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

16:46

Stuart McMillan (Greenock and Inverclyde) (SNP): First, I will touch on the McClure situation. I raised it in the committee because constituents,

some of whom have been seriously affected, came to me with their concerns. My point of caution to colleagues is that, when having dialogue with constituents, they should please give them factually accurate information. The Scottish Legal Complaints Commission is the organisation to deal with the complaints, not the Law Society of Scotland. On 15 January, I am hosting an event in my constituency for constituents to come along to, because of the situation that they have faced with McClure's. I urge other colleagues to do likewise if they have a large number of people in their patches who have raised the issue with them.

At the outset, I echo the comments from others about the SLC, its work on the bill and its support for the Delegated Powers and Law Reform Committee's scrutiny of the bill. The extension of the remit of the DPLRC has been an important advance in helping the Parliament to deal with SLC reports that have been completed but for which time had not been found in Parliament to implement the legislative changes that were suggested—a point that Oliver Mundell touched on earlier.

The DPLRC is supportive of the role that it has in scrutinising certain SLC bills. In the past year, the committee has led on two SLC bills, the one that is now the Moveable Transactions (Scotland) Act 2023 and this one. In 2024, the committee will embark on another SLC bill, which has just been introduced—the Judicial Factors (Scotland) Bill. That bill is long overdue, with some aspects of the present law dating back to 1690.

Today, I am not speaking as the convener of the committee, but I know that colleagues past and present who have had the pleasure of serving on the committee encourage the Scottish Government to continue to keep the pipeline of SLC bills coming. The committee is always ready to scrutinise those that meet its criteria for consideration.

I also say, gently, to the whips of all parties that having members serve some time on the Delegated Powers and Law Reform Committee would provide a greater understanding of some of the vital and sometimes unnoticed work that takes place in this Parliament. In my opinion, the DPLRC and the Public Audit Committee provide two invaluable experiences.

Bob Doris: Hear! Hear!

Stuart McMillan: Thank you.

I thank those who contributed to the committee's scrutiny of the bill, whether in writing or by appearing before the committee during one of the evidence sessions. We are grateful for the time and energy that has been given to help the committee in its work.

I also thank committee members for their scrutiny of the bill. We work well together, as Oliver Mundell touched on, in scrutinising all the bills that we encounter. We have the same goal of attempting to improve them to ensure that good laws are created. Oliver Mundell touched on the fact that the law relating to trusts and succession has existed for more than 100 years. I encourage present and future Scottish Governments, whatever their colour, to ensure that it is not another 100 years before the bill is changed.

I know that our work is noticed by relevant business sectors, because feedback is given to the committee from time to time. I thank the minister and her team for the way in which they have worked with the committee to get the best possible outcome for the bill. Their collegiate approach has been appreciated by everyone in the committee. Finally, I thank the first-class clerking team. I know that they enjoy the scrutiny of SLC bills, as it provides them with an experience other than the secondary legislation that we deal with every Tuesday. They assist us tremendously well and deserve recognition for their dedication.

The committee had some successes during the course of stage 2 and stage 3 scrutiny. For example, following an amendment at stage 2, the bill includes the following provisions that were recommended by the committee.

On incapacity, there is an explicit reference to the right of a trustee who has been deemed incapable by fellow trustees to go to court to challenge the decision. The definition of incapacity is now able to be easily updated in the bill, anticipating upcoming changes to this area of law in the context of the final report of the Scottish mental health law review.

The second point is on ethical investment. Following representations at stage 1 and the amendments at stage 2, the bill makes it clear that, unless the legal document creating the trust says otherwise, ethical, social and environmental considerations are relevant when trustees are choosing between otherwise comparable and suitable investments. The committee hopes that that is a small, but tangible, step towards helping us on our net zero journey.

My amendment today will also provide some additional safeguards to help to protect the integrity of trusts and trustees.

The committee also recommended that the bill should be amended to clarify that the law does not permit an unlawful killer to be an executor of their victim's estate. New sections 6A and 73A, which were inserted at stage 2, deal with those who are convicted of or being prosecuted for murder or culpable homicide and clarify that such individuals

are unfit to be the executor of the victim's estate and, as such, can be removed from that role by the court.

The committee recommended as a priority the timely implementation of an order under section 104 of the Scotland Act 1998, which has come up not just in relation to this bill but in discussion of the Moveable Transactions (Scotland) Act 2023. Thankfully, discussions are well under way between the Scottish and UK Governments, and I know that all committee members are pleased with that. We hope that that is commenced as soon as possible.

With that, I look forward to supporting the Trusts and Succession (Scotland) Bill at decision time.

16:52

Maggie Chapman (North East Scotland) (Green): I begin by thanking the Scottish Law Commission for its detailed and technical work during more than a decade on the different elements of the bill. I am grateful to the Law Society for its work and suggestions, the briefings that I have received from it and the conversations that we have had about this area of law. I put on record my thanks to Stuart McMillan and members of the Delegated Powers and Law Reform Committee for their consideration and scrutiny work.

The Scottish Greens welcome this technical legislation that seeks to deal with the complexities that more than a century of acts and amendments to them has created. This reform and consolidation is the most significant development in trust law for more than 100 years. It is intended simplify our trusts and succession law and to make it easier for solicitors, trustees, trusters and beneficiaries to understand the legal rights and duties.

During the stage 1 debate on the bill, I raised the need to ensure that trusts support positive environmental and social objectives to enhance our environment and community wellbeing. I also stated that, on landholding trusts, the Scottish Greens believe that offshore trusts, blind trusts and private trusts that exist for tax avoidance or ownership secrecy should not be allowed to hold land. Primary beneficiaries of landholding trusts should demonstrate the productive use or development of land for good, while also being locally accountable and accessible. We want our succession law to support collective benefit and fair inheritance principles, and for it not be used to further contribute to Scotland's land problem.

We remain concerned about the historic inequalities that are embedded in the structures and concentrated patterns of land ownership, and powers within succession law must be considered

as part of our wider land reform for community benefit considerations. However, perhaps those issues go beyond some of the technical parameters of the bill that we are discussing.

In conclusion, I reiterate my thanks to those who have got us to where we are today. I look forward to supporting the bill at decision time and to an update on the section 104 discussions that Stuart McMillan referred to.

16:55

Bill Kidd (Glasgow Anniesland) (SNP): As a member of the Delegated Powers and Law Reform Committee, I spoke in the stage 1 debate on the Trusts and Successions (Scotland) Bill in September. It is a pleasure to have the opportunity to update the chamber on the progress of the bill at stage 3. I thank all the members of the committee and, of course, all the committee clerks and the legal team for their excellent work on the bill at stage 2. I note the overwhelmingly positive contribution of the many witnesses and, in particular, I thank the Scottish Law Commission for its invaluable efforts prior to the introduction of the bill and its on-going support and research to ensure that the bill meets the aims and objectives of the proposals in a comprehensive manner, enabling it to be passed by the chamber at stage 3.

When enacted, the bill will be the most significant development in trust law for more than 100 years, continuing and extending the use of Scotland as a favourable jurisdiction for trusts. In my speech in the stage 1 debate, I noted concerns that were raised by stakeholders about the bill's default position on the personal liability of trustees for court expenses in cases in which the trust property is insufficient to cover any such costs. The committee's view was that the starting point should be that there is no personal liability on the part of trustees for expenses unless a court deems otherwise. I am happy that amendments to remove personal liability for trustees where the trust property is insufficient to meet the expenses of litigation were passed by the committee at stage 2 and are present in the bill in its final version.

I also noted concerns regarding the bill's potential interaction with Scotland's journey to net zero and assured the chamber that the committee would work with the Scottish Government to amend the bill to explicitly allow trustees, subject to the terms of the trust deed, to choose to invest in environmental, social and governance—ESG—investments. Happily, a new section of the bill, 17A, which was inserted at stage 2, covers trustees' powers to invest. It makes it clear that, unless the legal document that creates the trust says otherwise, ethical, social and environmental considerations are relevant when trustees are

choosing between otherwise comparable and suitable investments.

The committee also recommended that the Scottish and United Kingdom Governments pursue the implementation of a section 104 order to apply the changes that are proposed in the bill to pension scheme trusts in order to ensure the smooth running of the bill. I welcome the Scottish Government's commitment to work with the UK Government to bring forward such an order.

One final point that has been raised by the Law Society of Scotland is that, given that the changes that are set out in the bill represent significant changes to trust law, it is essential that implementation is accompanied by a comprehensive publicity and awareness-raising campaign for trustees, their professional advisers and the wider public who interact with trusts. I look forward to hearing the Government's plans in that regard.

Finally, given that this will be my final debate in Parliament—I mean in 2023, thank you—I wish everyone here and all my constituents in Glasgow Anniesland all the best for 2024.

The Deputy Presiding Officer: Like hitting the microphone with your papers, there are various ways of gaining the Parliament's attention.

We now move to closing speeches.

16:58

Martin Whitfield (South Scotland) (Lab): I think that the most recent attempt at awakening the chamber was more successful than your whacking the microphone earlier, Deputy Presiding Officer.

Scottish Labour is in agreement with the bill and will support it at decision time later this afternoon. As we have heard from a number of speakers during the stage 3 amendment proceedings and in this final debate, it has probably been far too long since a Parliament took a look at the issue. Thanks have to go to the Scottish Law Commission for the work that it has done—quietly, in the background, and then slightly more forcibly—to bring the bill forward. I must also thank the interested parties that supported that work and responded to the bill, including the Law Society of Scotland, the Faculty of Advocates and others.

As others have done, I thank the members of the committee and the clerks who support them for the huge amount of work that they did on the bill. In particular, I put on the record my thanks to Stuart McMillan for his work on the bill and his on-going interest in it. Conveners often go unthanked in the chamber, but I know how much experience and knowledge he has brought to the bill's consideration. It is thanks to the Government that

the bill has been improved with cross-party support. I thank Stuart McMillan for his work.

In summing up, I want to draw members' attention to a number of matters that other speakers have hinted at. The first of those, which was raised by Bill Kidd and Oliver Mundell, is the importance of an awareness campaign. We have heard about the importance of wills and powers of attorney, and how they can ease the pressure on families if they are dealt with at the appropriate times. Money spent on an awareness campaign would be, to use that old-fashioned phrase, money well spent. As part of such a campaign, MSPs could raise their constituents' awareness when they have opportunities to do so, but the campaign could also go wider than that. Through it, the Government could point out the importance of both vehicles—powers of attorney and wills—with a view to enabling people to make choices when they are able to do so, thereby avoiding the crises that can arise when that is done too late in the day, or so late that there are concerns about the validity of what is made. It would be nice if the minister could address that in her summing-up speech.

In the short time that I have left, I want to return to amendment 13, which relates to section 19, on which I made an intervention, and the regulations on what a good cause may be. It would be helpful to know whether the Government is considering bringing in any specific good cause identifiers by way of subsequent legislation.

It is nice to have a bill on which there is agreement across the chamber and that has been improved through the parliamentary process. As Oliver Mundell suggested, it should maybe return to Parliament for post-legislative scrutiny in less than 110 years' time so that we can seek to make improvements.

I will leave it there. I again express my thanks to all those who have been involved.

17:02

Jeremy Balfour (Lothian) (Con): I hope that members will be able to hear some of the speech from where I am taking part in the debate this afternoon. I am pleased to be able to speak in today's stage 3 debate on this important piece of legislation. As others have commented, it is more than 100 years since we have seen a change in the law in this area. I am aware that, for many people, and perhaps even some of my colleagues, the bill can seem like a pretty dry read. It can seem like a very technical bill that will not have an impact on the day-to-day lives of our constituents. Even so, it is an important bill that will be welcomed by many people, especially those in the

legal profession and those who execute trusts and wills.

Broadly speaking, the bill will make a good piece of legislation, and I look forward to it being passed in a few minutes' time. Several colleagues have addressed a number of the issues that have come up, but it is important to note how the bill has been improved as a result of members and the Government engaging constructively. I thank the minister for her work on my amendments, which I believe have improved the bill this afternoon.

One disappointment is that we have not gone far enough on the law of succession. I understand that, as my colleague Oliver Mundell said, we did not want to have a controversial or political bill, but I hope that within the next 100 years we will see more radical reform of the law of succession, which still has many outdated provisions that are not fit for the 21st century. I know that the Scottish Government is going to consult on that, and I hope that a bill on the matter will be passed in the next session of Parliament.

I, too, thank the people who helped the committee and the Parliament to get to where we are today—the Scottish Law Commission, the committee team, the witnesses and those who helped to draft amendments. I suspect that the bill will not get much coverage in the media tomorrow or in the days ahead, but I believe that it can and will make a difference for the better to the lives of individuals here in Scotland, and I look forward to supporting it in a few minutes' time.

The Presiding Officer (Alison Johnstone): I ask Siobhian Brown to wind up.

17:04

Siobhian Brown: I thank the members who have contributed to the debate. There is a general consensus that the law on trusts is outdated, and the changes that are proposed in the bill will make a significant and positive difference for those who use trusts in Scotland. I hope that it is clear that we listened carefully to what was said by stakeholders, the committee and other MSPs during stages 1 and 2.

Trust law may sound remote and dusty, but it is important to recognise that it impacts many of us. Trusts have an everyday utility. To put it simply, they are an important means of managing assets for people. For example, payments from the clients of a travel agent or a solicitor may be held in a form of trust. A person may set up a trust to control and protect their family assets, or a trust may be used when someone is too young to handle their affairs or when someone has suffered a serious personal injury. As the number of blended families increases, trusts can help to

manage assets between complicated and sometimes difficult family relationships.

I hope that it is clear that the bill matters to all those who are involved in trusts in Scotland, whether as a truster, a beneficiary or a trustee. It will make things simpler and fit for modern-day purposes, which will be of great benefit to those people.

However, if the bill is passed today, as I sincerely hope it will be, there is still a lot of work to be done before its provisions will be capable of coming into effect. During the stage 1 evidence sessions, we heard how important it is, given the significant value that is involved and the fact that there is a sizeable pensions industry in Scotland, that pension trusts are included in the reforms. Work has been under way for some time to engage with the UK Government on the necessary section 104 order under the Scotland Act 1998 to ensure that we will not be left with a black hole in the law and that pension trusts here will benefit from the reforms. There is more work to be done, and we are committed to doing it.

I mentioned earlier Jeremy Balfour's amendment that relates to cohabitation. Although I was happy to support that, I made it clear that we would not plan to bring that part of the bill into force until such time as the other issues that are encountered by people who attempt to apply for financial provision on the death of a cohabitant are considered further and, if necessary, addressed. I have written to the committee setting out my intention to consult on those issues as part of a wider consultation on the recommendations in the Scottish Law Commission's report on cohabitation, and I intend that consultation to be published by the summer of 2024.

Throughout the bill's passage, questions have been raised about wider reforms to the law of succession. The bill was never the legislative vehicle for such reforms. The Scottish Law Commission has produced reports on the issue and we have subsequently consulted on several occasions. It was clear that there was no agreement on the matter among stakeholders and, given that the area of intestate law has potential to impact on us all, it is very important that we take time to get it right. Over the past couple of years, we have been pleased to fund work, which has been carried out under the auspices of the Scottish Civil Justice Hub, to gather data and evidence, including on public attitudes, and to carry out research that can be used to inform policy. This is not an area of law that has been forgotten. On the contrary, work is on-going, and I am happy to keep the committee updated on progress.

Importantly, the bill incorporates powers so that we have the tools and the flexibility to ensure that

provisions can be kept up to date. For example, the committee recommended in its stage 1 report that it would be desirable to consider flexibility in the bill to alter the types of trust applications that may be considered by the sheriff and those that may be considered by the Court of Session. The Scottish Government therefore lodged a stage 2 amendment to allow the Scottish ministers to vary the definition of “court” so that either the sheriff court or the Court of Session may consider different types of trust applications.

Another example is the definition of “incapable”. The bill sets out the circumstances in which a person is to be regarded as incapable for the purposes of the bill, and it aligns the definition with the wider incapacity legislation in Scotland. In recognition of the significant and far-reaching changes that have been recommended to mental health legislation and the fact that the precise nature of future changes cannot be anticipated, the bill was amended at stage 2 to provide Scottish ministers with a power to amend the definition of “incapable” to ensure that there is sufficient flexibility to allow trust law to keep pace with the evolving understanding of incapacity.

I will turn to a few points that were made during the debate. Oliver Mundell, Bill Kidd and Martin Whitfield raised the importance of public awareness. I know from discussions with my officials and the Law Society of Scotland that the organisation intends to publicise the changes that the bill will bring about to its members, who are likely to comprise a significant number of professional trustees and professional advisers to Scottish trusts. I am happy to work with the profession to agree what further guidance or awareness is necessary.

Rhoda Grant and Martin Whitfield mentioned the importance of people making wills and powers of attorney. In our positions as MSPs, we should all be highlighting that to our constituents wherever possible. Moving on to section 19, Martin Whitfield asked about good causes. I note that there have been discussions with the law firm CMS Cameron McKenna Nabarro Olswang about covering ring-fenced assets. That is a specific example that relates to section 19.

In conclusion, I repeat my thanks to all those who gave evidence to help to improve the bill during the parliamentary process. I commend the motion in my name to the Parliament.

Proxy Voting

The Presiding Officer (Alison Johnstone):

The next item of business is a debate on motion S6M-11616, in the name of Martin Whitfield, on behalf of the Standards, Procedures and Public Appointments Committee, on standing order rule changes on proxy voting. I invite members who wish to speak in the debate to press their request-to-speak button.

17:12

Martin Whitfield (South Scotland) (Lab): It has been an afternoon of the minutiae of law and standing orders, and of how places operate. This item is no less important than the stage 3 procedure that we have just gone through. The motion before the Parliament invites us to agree that a permanent proxy voting system be introduced.

The pilot is due to end on 31 December. As members will be aware, it provides for a member to arrange for their vote to be cast by another member acting as proxy in any vote of a meeting of the Parliament or a committee of the whole Parliament.

We recognise that there might be certain circumstances in which members need to step away from the obligations and responsibilities that being an MSP places on us. That might be for a period of time due to illness, parental or caring responsibilities or, sadly, in some cases, bereavement.

The Standards, Procedures and Public Appointments Committee has conducted an evaluation of the pilot, including an internal consultation with all relevant stakeholders. The responses have indicated that there is support for the provisions of the temporary system to be made permanent.

The committee has reflected in its report on future parliamentary procedures and practices that we consider that proxy voting accords with the very founding principles of this Parliament in ensuring that it can be more inclusive and accessible. Furthermore, the recent gender-sensitive audit of Parliament recommended that the committee propose a permanent standing order to introduce a proxy voting system.

We wish the permanent system to broadly mirror the current temporary arrangements—namely, that the standing order sets out in principle that a member may arrange for their vote to be cast as a proxy but that the details of how such a vote may be exercised sit in a separate scheme that is administered by the Presiding Officer.

John Mason (Glasgow Shettleston) (SNP): The member has listed reasons why people might not be here. Does he think that there is also a risk of the system being abused, as with the present online system, whereby it appears that some members just do not bother turning up?

Martin Whitfield: I am grateful for the intervention, but I do not feel that I can be in agreement even with the sub-statement about abuses of the online system. When members of the Scottish Parliament are sent to this place, they are sent by constituents who entrust in them a promise to represent their constituents to the very best of their abilities. I would struggle with, and indeed find it very difficult to understand, a situation in which a member who sits in this chamber or who—rightly under standing orders—contributes in a hybrid way would abuse that position. To be an MSP carries with it a responsibility, and it would be very disappointing if an individual chose to abuse that responsibility for whatever reason.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): I think that Mr Mason was making a distinction between proxy voting and remote voting, which are two distinct and different things.

I support the committee's proposals and I praise the committee for its good work on this matter. However, I want to check that the reforms that the committee will suggest to Parliament remain iterative and evolving, that the committee will come back at a later date with further reforms, and that the entire chamber will be kept updated and involved in that process.

Martin Whitfield: All the changes that are proposed sit on an iterative basis, because we will never achieve the perfect chamber. It is always going to be a journey—it will be a voyage—and it is for all members across the chamber to contribute to that by adding their ideas and opinions. I know that the committee and others across the chamber are always happy to debate proposals. I merely took the stance that I did with the previous intervention because I think that it lays an accusation for which there is no real evidence.

I take this moment to thank you, Presiding Officer—I hope not in any embarrassing way—for your substantial support, contribution and assistance with regard to this matter, which has been gratefully received by me and the committee.

The practical operation of the proposed proxy voting system will remain as set out in the Presiding Officer's scheme. As detailed in the committee's report, we gave consideration to some of the practical aspects of the scheme. I understand that the scheme has been finalised

and, if it is endorsed by the chamber today, it will be able to be published on 22 December.

The only real difference between the temporary system that has been in operation and the permanent system that is being proposed is that we will set out in standing orders the grounds on which a proxy vote can be requested.

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): I thank the member for taking a third intervention. I am curious as to whether there is evidence on how we can protect members from sometimes being under pressure to adopt a proxy vote when they are incapacitated and not able to engage with the substance at hand but might be under pressure to vote nevertheless.

Martin Whitfield: The member raises a fascinating and interesting problem, which has, to some extent, been handled in both the evidence that we have had and discussions within the committee. There are a number of ways in which votes can be reflected even if they are not cast in the chamber. The committee has, in various situations, visited whether we wanted to address the concept that is known as pairing, for example.

However, what the committee wished to do with proxy voting was reflected in the very first debates that the committee brought to the chamber and in the discussions that we have had. That is to protect the members who, under certain circumstances, need to step away from the obligations of being an MSP but still be in a position to reassure their constituents that the constituents' vote, through their elected representative, appears in this chamber for the purposes of legislation.

If there were a situation, as was suggested in an earlier intervention, in which a member was being pressured by someone else to extend a proxy vote, I deeply hope that they would be able to find it in themselves to reach out and say no, because the majority of constituency MSPs are sent here because of who they are. Obviously, the list MSPs are sent under a party-political list, but we are all individuals and we have an individual responsibility to our constituents, and we should answer to that.

I realise that time is late, so I will simply move the motion that is in my name but is on behalf of the committee and, I hope, following the vote, the whole chamber.

I move,

That the Parliament notes the Standards, Procedures and Public Appointments Committee's 12th Report, 2023 (Session 6), *Standing Order Rule changes - Proxy Voting* (SP Paper 489), and agrees that the rule changes to Standing Orders set out in the annexe of the report be made with effect from 22 December 2023.

Business Motions

17:19

The Presiding Officer (Alison Johnstone):

The next item of business is consideration of business motion S6M-11737, in the name of George Adam, on behalf of the Parliamentary Bureau, on a change to the business programme.

Motion moved,

That the Parliament agrees to the following revisions to the programme of business for Thursday 21 December 2023—

after

12.45 pm Portfolio Questions:
Social Justice

insert

followed by Appointments of the Chair and
Commissioners of the Scottish Land
Commission

delete

1.10 pm Decision Time

and insert

1.30 pm Decision Time—[George Adam]

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S6M-11723, in the name of George Adam, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees—

(a) the following programme of business—

Tuesday 9 January 2024

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Topical Questions (if selected)

followed by Constitution, Europe, External Affairs
and Culture Committee Debate: How
Devolution is Changing Post-EU

followed by Committee Announcements

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 10 January 2024

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions:
Constitution, External Affairs and
Culture;
Justice and Home Affairs

followed by Scottish Government Debate: The
Impact of UK Government Asylum Policy
and Legislation in Scotland

followed by Business Motions

followed by Parliamentary Bureau Motions

followed by Approval of SSIs (if required)

5.00 pm Decision Time

followed by Members' Business

Thursday 11 January 2024

11.40 am Parliamentary Bureau Motions

11.40 am General Questions

12.00 pm First Minister's Questions

followed by Members' Business

2.30 pm Parliamentary Bureau Motions

2.30 pm Portfolio Questions:
Education and Skills

followed by Scottish Government Debate: Scotland's
Public Service Values

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

Tuesday 16 January 2024

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Topical Questions (if selected)

followed by Stage 1 Debate: Visitor Levy (Scotland)
Bill

followed by Financial Resolution: Visitor Levy
(Scotland) Bill

followed by Committee Announcements

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 17 January 2024

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions:
Wellbeing Economy, Fair Work and
Energy;
Finance and Parliamentary Business

followed by Scottish Labour 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 18 January 2024

11.40 am Parliamentary Bureau Motions

11.40 am	General Questions
12.00 pm	First Minister's Questions
<i>followed by</i>	Members' Business
2.30 pm	Parliamentary Bureau Motions
2.30 pm	Portfolio Questions: Transport, Net Zero and Just Transition
<i>followed by</i>	Scottish Government Business
<i>followed by</i>	Business Motions
<i>followed by</i>	Parliamentary Bureau Motions
5.00 pm	Decision Time

(b) that, for the purposes of Portfolio Questions in the week beginning 8 January 2024, in rule 13.7.3, after the word "except" the words "to the extent to which the Presiding Officer considers that the questions are on the same or similar subject matter or" are inserted.—[George Adam]

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S6M-11724, in the name of George Adam, on behalf of the Parliamentary Bureau, on a stage 1 extension.

Motion moved,

That the Parliament agrees that consideration of the Circular Economy (Scotland) Bill at stage 1 be extended to 8 March 2024.—[George Adam]

Motion agreed to.

Parliamentary Bureau Motions

17:21

The Presiding Officer (Alison Johnstone): The next item of business is consideration of two Parliamentary Bureau motions. I ask George Adam, on behalf of the Parliamentary Bureau, to move motion S6M-11725, on approval of a Scottish statutory instrument, and motion S6M-11726, on committee meeting times.

Motions moved,

That the Parliament agrees that the Social Security Information-sharing (Scotland) Amendment Regulations 2024 [draft] be approved.

That the Parliament agrees that, under Rule 12.3.3B of Standing Orders, the Criminal Justice Committee can meet, if necessary, at the same time as a meeting of the Parliament between 1.00 pm and 2.30 pm on 11 January 2024.—[George Adam]

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

Motion without Notice

17:21

The Presiding Officer (Alison Johnstone): I am minded to accept a motion without notice, under rule 11.2.4 of standing orders, that decision time be brought forward to now. I invite the Minister for Parliamentary Business to move such a motion.

Motion moved,

That, under Rule 11.2.4, Decision Time be brought forward to 5.21 pm.—[George Adam]

Motion agreed to.

Decision Time

17:21

The Presiding Officer (Alison Johnstone): The first of today's three questions is, that motion S6M-11699, in the name of Siobhian Brown, on the Trusts and Succession (Scotland) Bill, be agreed to. There will be a short suspension to allow members to access the digital voting system.

17:22

Meeting suspended.

17:24

On resuming—

The Presiding Officer: We move to the division on motion S6M-11699, in the name of Siobhian Brown. Members should cast their votes now.

The vote is closed.

Bill Kidd (Glasgow Anniesland) (SNP): On a point of order, Presiding Officer. It is that time of year. My screen has frozen, but I would have voted yes.

The Presiding Officer: Thank you, Mr Kidd. We will ensure that that is recorded.

Martin Whitfield (South Scotland) (Lab): On a point of order, Presiding Officer. I apologise—there seems to be a difficulty in connecting to the digital voting platform. I would have voted yes.

The Presiding Officer: I can confirm that your vote has been recorded, Mr Whitfield.

Neil Bibby (West Scotland) (Lab): On a point of order, Presiding Officer. I would have voted yes.

The Presiding Officer: Thank you, Mr Bibby. We will ensure that that is recorded.

Tess White (North East Scotland) (Con): On a point of order, Presiding Officer. I would have voted yes.

The Presiding Officer: Thank you, Ms White. 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)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 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)
 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)
 Dowey, Sharon (South Scotland) (Con)
 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)
 Findlay, Russell (West Scotland) (Con)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greene, Jamie (West Scotland) (Con)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Gulhane, Sandesh (Glasgow) (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)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 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)
 Marra, Michael (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 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)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Minto, Jenni (Argyll and Bute) (SNP)

Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Slater, Lorna (Lothian) (Green)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 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)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Sweeney, Paul (Glasgow) (Lab)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 White, Tess (North East Scotland) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division on motion S6M-11699, in the name of Siobhian Brown, on the Trusts and Succession (Scotland) Bill, is: For 120, Against 0, Abstentions 0.

Motion agreed to,

That the Parliament agrees that the Trusts and Succession (Scotland) Bill be passed.

The Presiding Officer: The Trusts and Succession (Scotland) Bill is passed. [*Applause.*]

The next question is, that motion S6M-11616, in the name of Martin Whitfield, on behalf of the Standards, Procedures and Public Appointments Committee, on standing order rule changes to proxy voting, be agreed to.

Motion agreed to,

That the Parliament notes the Standards, Procedures and Public Appointments Committee's 12th Report, 2023 (Session 6), *Standing Order Rule changes - Proxy Voting* (SP Paper 489), and agrees that the rule changes to Standing Orders set out in the annexe of the report be made with effect from 22 December 2023.

The Presiding Officer: I propose to ask a single question on two Parliamentary Bureau motions. As no member objects, the question is, that motion S6M-11725, on approval of a Scottish

statutory instrument, and motion S6M-11726, on committee meeting times, in the name of George Adam, on behalf of the Parliamentary Bureau, be agreed to.

Motions agreed to,

That the Parliament agrees that the Social Security Information-sharing (Scotland) Amendment Regulations 2024 [draft] be approved.

That the Parliament agrees that, under Rule 12.3.3B of Standing Orders, the Criminal Justice Committee can meet, if necessary, at the same time as a meeting of the Parliament between 1.00 pm and 2.30 pm on 11 January 2024.

The Presiding Officer: That concludes decision time.

Complex Regional Pain Syndrome Awareness Month

The Deputy Presiding Officer (Annabelle Ewing): The final item of business is a members' business debate on motion S6M-10702, in the name of Clare Adamson, on complex regional pain syndrome awareness month. The debate will be concluded without any question being put.

Motion debated,

That the Parliament marks Complex Regional Pain Syndrome (CRPS) Awareness Month; understands that CRPS is a debilitating chronic disorder, mostly affecting the limbs, which is characterised by severe pain, pathological changes of bones, joints and skin, swelling, temperature and colour changes, and motor dysfunction, which can cause a person to experience persistent, severe and debilitating pain; further understands that the condition may develop after an injury, surgery, stroke or heart attack, and that the pain can be out of proportion with the severity of the initial injury; notes that the 25th CRPS Awareness Month will be held during November 2023, a month where the chronic pain community and their families and supporters around the world come together to help raise awareness of the condition, and that, as part of the initiative, "Colour the World Orange Day" sees businesses, town halls and landmarks change their lights to orange in support of people living with CRPS; commends the volunteers and organisers at CRPS UK and Burning Nights CRPS Support for their efforts to raise awareness of what it sees as this poorly-understood condition; acknowledges that CRPS UK and Burning Nights are registered charities, with, it believes, the shared goals of raising awareness of CRPS symptoms, providing invaluable support to people with the condition, and advocating for more research development into it, and wishes all of the organisers, volunteers, and the wider CRPS community, including those in the Motherwell and Wishaw constituency, every success in their efforts to increase public awareness of this debilitating condition and to support people affected by CRPS.

17:29

Clare Adamson (Motherwell and Wishaw) (SNP): I thank colleagues across the chamber who will speak in the debate and all those who supported the motion.

Complex regional pain syndrome, or CRPS, is a rare neurological condition that I presume many in the chamber will never have heard of. If truth be told, I wish that that were the case for me, too. However, my son, Aidan, has CRPS. He is 26 and on the first steps of a professional career that he loves. I have never spoken about him in Parliament before—I felt that that would have been an intrusion into his privacy when he was younger—but I have his blessing to do so this evening.

Aidan loved rugby. He was a Dalziel dragon from the age of five and was a dedicated and talented hooker. In his first year at high school, he broke his wrist on the rugby field. That would be

traumatic enough for any child or their parents, especially as it involved an operation and a pin, but we thought that it was mechanical, fixable and not threatening or life limiting. However, we were wrong.

Aidan complained of pain following the injury. Despite that, he continued to get on with rugby and karate, and he continued to play clarinet at school. He is a talented musician and, at the time, he hoped to study at the conservatoire.

Months after the stookie came off and the wound healed, Aidan came home with a strange swelling on his knuckle. The school had had the foresight to draw a circle around it—it was like a grape on his knuckle—to which Aidan had added a smiley face. Our general practitioner saw him and, within a few hours, Aidan was in accident and emergency with a suspected spider or insect bite or, in the worst case, sepsis.

That was the start of a medical pathway involving multiple disciplines, X-rays and MRI scans. It involved ups and downs, including a further visit to A and E, where he was—in my opinion and his own—coerced into saying that someone might possibly have bumped him in the corridor at some time in the school day and that that would have led to the swelling on his hand at the time. That did not happen—he had not had an accident.

A further low point was when an orthopaedic consultant suggested to him that he was having bad dreams at night and was banging his wrist on the wall while asleep. Can members imagine that teenage boy feeling that no one understood or believed him?

We tried everything, of course: physiotherapy; transcutaneous electrical nerve stimulation—or TENS—machines; acupuncture; wax baths; and icing. Icing was frequently recommended by clinicians and physiotherapists, but it is one of the worst things that can be done for someone suffering with CRPS. I am sure that we will hear that from other members.

Eventually, having waited for two years after his referral, Aidan saw a pain consultant, and was diagnosed on his first visit. Although his pain and challenges remained the same, the sense of relief and validation that he felt was overwhelming. Mirror box treatment with appropriate neurological treatment helped a little, but there is no cure or treatment for CRPS. We need more research into, and much more awareness of, the condition.

Aidan is in a relatively good place. He could not put in the practice to achieve his clarinet and bass clarinet goals and become a professional musician. Nonetheless, he won the music prize in sixth year, he has studied for a music degree, and he is now on his future pathway. That was despite

being told by a guidance teacher after his standard grade results that he had been a disappointment and that he should have done much better and got all As. His dad and I were very proud of him. Unknown to the teacher—despite the condition being disclosed—I had had to sit up with him in tears at night, with him begging me to cut off his wrist and hand.

That might sound like a teenage drama until it is understood that, for CRPS sufferers, elective amputation is a common route. We first saw that reported in the news in 2019, when a promising Welsh athlete, Helena Stone, had her leg amputated at the age of 22 following a kayaking accident when she was 16. CRPS is usually, but not exclusively, triggered by an injury.

CRPS has always been in the news. Recently, it has been in the news because of the Netflix documentary “Take Care of Maya”. The title comes from the suicide note of Maya Kowalski’s mother, Beata, after she was accused by clinicians of Munchausen syndrome by proxy and her daughter was taken into care in the US. That is a tragedy in the true sense of the word, with a family losing a loved one in horrific circumstances. Indeed, a Florida court has just awarded the family damages of \$261 million to the family against John Hopkins all children’s hospital in St Petersburg. The documentary has raised awareness and understanding of CRPS.

A number of charities, including CRPS UK and Burning Nights CRPS Support, provide support. Through Burning Nights, I met another pupil from Aidan’s school, Kiera McAdam, who is just a few years older than him, is also in a professional educational role and is a champion fundraiser for the charity. Her experiences of grappling with CRPS as a teenager and adult resonate with Aidan’s.

In 2022, Burning Nights held its annual conference in Scotland. I was delighted to attend with Aidan and know that it was a profound and inspirational experience for him to meet and talk to other young people coping with CRPS. I also met Victoria Abbott-Fleming in person; I had been working with her for a number of years and was honoured to be asked to open, and to speak at, the conference. Victoria was a successful barrister until a fall at work in 2003 triggered CRPS. During the time that she has had the condition, she has had both legs amputated above the knee, not through the type of elective surgery that I mentioned earlier but due to life-threatening, aggressive and extreme CRPS symptoms. You can read Victoria’s story on her founder’s page on the Burning Nights website.

Throughout November, which was CRPS awareness month, Burning Nights posted daily tweets informing people of the condition. The

tweets are incredibly informative, and I urge anyone interested in learning more about the CRPS to look at them, and at the charity's tweets in general.

I have just about managed to get through my speech without crying, but I have cried about CRPS in this place. At an event here in Parliament, I met a truly inspirational academic from the University of Glasgow, Dr Jennifer Corns, who came here with a brain—not the incredible one that she herself has but a plastic one. I know that many people will remember her from having their photograph taken with that brain in the garden lobby. She is an expert on chronic pain. When I mentioned Aidan's diagnosis, her first question to me was, "Did he have an accident?" and I knew that she understood. There was no need for an explanation or for the same questions. I had met someone who understood what I had gone through—and I am just a parent, not a sufferer.

Today is about raising awareness. There is work to be done in general practice surgeries, in accident and emergency and in our schools to foster understanding and empathy. There is also a need for access to pain condition nurses and consultants, and waiting times, especially for young people, must be improved. Aidan, Kiera and Victoria, and all those across the globe living with CRPS day in, day out, are all heroes in my eyes. *[Applause.]*

17:37

Rona Mackay (Strathkelvin and Bearsden) (SNP): I thank my friend and colleague Clare Adamson for bringing this important debate to the chamber and for her personal interest in raising awareness of complex regional pain syndrome. Her story was very moving, and I know that it must have been difficult to tell. I wish her son Aidan well.

I have a confession to make. I have been co-convenor of the cross-party group on chronic pain since 2016, but, until Clare Adamson brought the condition to my—and the group's—attention, I was unaware of CRPS. That is why awareness raising and debates such as this one are so important. Until there is greater understanding of the condition, sufferers will not benefit from the research and medical knowledge that they deserve.

As Clare Adamson's motion states, CRPS is a debilitating and chronic disorder, mostly affecting the limbs. It is characterised by severe pain, pathological changes to bones, joints and skin, swelling, temperature and colour changes and motor dysfunction, and it can cause people to

experience persistent burning, severe and debilitating pain.

The three clinical stages of type 1 complex regional pain syndrome are acute, subacute, and chronic. The acute form lasts approximately three months. Pain, often burning in nature, is one of the first symptoms that initially limits function and chronic pain is a lifelong and debilitating condition. As Clare Adamson explained, the condition can develop after an injury, surgery, stroke or heart attack, and the pain is often very much out of proportion with the severity of the initial injury. It is a truly awful condition to be afflicted with.

Clare Adamson referred to Burning Nights. At a recent meeting of the cross-party group on chronic pain, the founder of that UK-wide charity, Victoria Abbott-Fleming, gave a moving account of her condition. As Clare said, Victoria is a barrister and was a healthy young woman until 2013, when she experienced an accident at work. She is now a double amputee, due to the severity of her CRPS. Burning Nights is a small, not-for-profit charity that does an amazing job of raising awareness of the condition, and it is a great source of comfort to and advice for sufferers.

Shortly after being elected in 2016, I was a member of the Public Petitions Committee in the Parliament. One memorable petition sought to raise awareness of sepsis as a potentially fatal condition; it still is but, at that time, that was not universally understood or acknowledged. Following the petition, the Scottish Government mounted a successful awareness campaign, and much more is now known about sepsis. I sincerely hope that that can be the outcome for CRPS sufferers, too.

As ever, hearing from someone with experience of any illness, such as Clare's account of what her son Aidan is going through, is the most powerful way of understanding it. The same goes for the many brave and literally long-suffering members of the chronic pain cross-party group, many of whom have battled to get the treatment that they need. I hear about their suffering once every three months, but they have to endure their pain every day, and my heart goes out to them.

Last month was CRPS awareness month, during which members of the chronic pain community and their families and supporters around the world came together to help to raise awareness of the condition. Slowly, but through their determination, that is beginning to happen. As part of the initiative, colour the world orange day involved businesses, town halls and landmarks changing their lights to orange in support of people who live with CRPS.

The volunteers and organisers of CRPS UK and the Burning Nights campaign group should be

praised for their great efforts to raise awareness of this little-understood condition. If this debate helps open the gateway to more understanding and research into CRPS, the time spent in the chamber will have been well worth it.

I thank Clare Adamson again for bringing the debate to the chamber, and I wish her son Aidan well.

17:42

Annie Wells (Glasgow) (Con): I start by thanking Clare Adamson for bringing the debate to the chamber. I did not know much about the subject until I looked into it a wee bit more, but she made a truly emotional, personal and brave contribution, and I wish her, her family and her son Aidan well.

CRPS is an uncommon neurological disorder. It plagues those who have it with chronic pain that is felt mostly in the limbs, although it can affect the whole body. It is believed that 16,000 people across the UK suffer from the condition, which is poorly understood despite having been medically recognised in some form for more than 150 years.

Notably, the condition can affect anyone, regardless of their age. As we have heard, it can be brought on by an accident or an injury. According to NHS Scotland, CRPS often improves incrementally over time in some people; however, in others, the pain lasts for years. Often, that pain can be intense and debilitating, affecting everything from motor functions to the overall quality of someone's life.

Because of our limited understanding of the complexity that surrounds CRPS, treatment requires a multidisciplinary plan. According to NHS Scotland, there are four main types of treatment option, which, typically, involve multiple physicians because of CRPS's complexity: psychological support; pain relief; physical rehabilitation; and self-education and management. Although they do not offer a complete solution, the treatments that are available today offer some relief, as the understanding of and research into CRPS continue to improve.

Raising awareness of CRPS is key to better understanding the disorder and improving the quality of life for the people whom it plagues. As is set out by Burning Nights, individuals who live with CRPS should follow the guidelines of the Royal College of Physicians.

As we have heard, November each year is CRPS awareness month, which the Scottish Parliament has celebrated for years. Likewise, there is no better place to help to shed light on the disorder than here at the Scottish Parliament.

Apart from helping to raise awareness, I also take the opportunity to highlight the wonderful work that is done by volunteers and people working across Scotland in service of this cause, including groups such as Burning Nights and CRPS UK. I thank them for the invaluable work that they do to offer community-oriented support. These groups provide education and empathetic spaces, and they put patients at the heart of everything that they do. Not only are patients behind their work, but the groups are also actively led by patients, along with care givers. That approach allows for those who suffer from CRPS to improve their own lives and those of others from a position of first-hand experience.

CRPS is poorly understood, and many people are not even aware that the disorder exists. Despite that, treatment and support have been able to make a positive difference for some sufferers. Keeping individuals with the disorder at the heart of treatment is crucial to any conversation that is had on the topic. Patient-led consultations and community spaces are central to treatment approaches and to increasing CRPS awareness among the public.

Once again, I take the opportunity to thank Clare Adamson for bringing the issue to the chamber.

17:46

Carol Mochan (South Scotland) (Lab): I, too, thank Clare Adamson for bringing this important debate to the chamber and for her heartfelt and honest speech about the reality for patients and their families. It was well received and I appreciate her doing that.

On behalf of Scottish Labour, I mark complex regional pain syndrome awareness month, which, as we have noted, was in November. I pay tribute to all those who work to raise awareness of CRPS and the impact that it can have on individuals and their families. As the motion states, CRPS is a debilitating chronic disorder that mostly affects the limbs and is characterised by severe pain, changes of bones, joints and skin, swelling, temperature and colour changes and motor dysfunction. Like other members, I was totally unaware of the effects and the presentation of symptoms.

As we have heard, those characteristics are debilitating and are often not recognised—but that was clear from the speeches of Clare Adamson and other members—but we know that approximately 15,000 people across the United Kingdom live with the condition.

At this juncture, as Clare Adamson and others have done, I pay tribute to CRPS UK and Burning Nights, which are registered charities in the UK

and do tremendous work not only to increase awareness of CRPS but to support those who live with it and to help them to improve their lives through advice, information, briefings and the development of research in this important area. From the briefings that we were kindly sent, I gather that we need to make sure that we are resourcing research into the condition on behalf of people who are suffering.

We have heard that Burning Nights holds an annual conference to bring together in a formal forum people who are impacted to enable them to discuss matters pertaining to the condition, and CRPS UK also holds regular events that raise awareness, inform people of the condition and encourage them to think about the importance of research in the area.

We have heard tonight that what is really important is that sufferers of CRPS are helped by the charities, families and loved ones and, often, volunteers who are keen to publicise the impact of the disorder on individuals. The latter is a key point. CRPS is so poorly understood that we need engagement from our clinicians to make sure that it is seen as an important area to research. I am keen to hear from the minister whether the Scottish Government understands that and whether it can see the need to progress research in that area on behalf of individuals. I am sure that we can do that through the work of the charities and the families.

I will make one final point about research. I often mention allied health professionals, because I have worked in that area previously. I know that they have been looking to come forward with ideas for research, because a multidisciplinary approach can be helpful. They recognised that there was not enough research in the work that they did, so they have put a lot of effort into doing that. Any time that I get an opportunity to speak with them, as I often do, I will ask how that is going and about what they have done.

I thank the national health service and the charities, but mostly I thank the patients and their families for being so committed to moving forward with this poorly understood condition, which causes a lot of pain and distress to the families that are involved. I thank Clare Adamson again for bringing the debate to the chamber.

17:50

Stephanie Callaghan (Uddingston and Bellshill) (SNP): I, too, thank Clare Adamson for securing such a vital debate on complex regional pain syndrome, which we refer to as CRPS. It is essential to recognise that CRPS can happen to any of us, yet it remains a silent struggle for so many people. I am grateful to be part of the debate

to help to break the silence that surrounds CRPS and to shine a light on the immense challenges that those who live with the condition face. I learned only this week—it seems that it was the same for other members—that CRPS is one of the most painful conditions that we know of, that it is often triggered by a seemingly minor injury, such as a sprain or a bone fracture, and that it can even appear spontaneously, with no known cause.

I have heard the enduring chronic pain associated with CRPS described as being much more painful than any initial injury and that it is a pain so severe that it can be described as

“being burnt alive from head to toe”.

That is a really scary thought.

In addition, CRPS causes pathological changes to the bones, along with intense swelling, heat and skin discolouration, as we have heard already. It is no surprise to learn that those symptoms can disrupt daily life and affect overall wellbeing.

One example that captured me was Ruby's story. Ruby is a resilient individual who was diagnosed with CRPS in childhood and who faced a challenging shift in symptoms during her time at university. Ruby's first couple of years at uni went really well, but then her pain escalated, and it reached the point at which sitting upright for more than a few minutes became unbearable.

Ruby's exciting university life petered out and she had to leave her work placement and rely on essential support back at her parents' home. That was devastating, especially for someone who describes themselves as a determined individual. The impact on her mental health was profound, not only because of the high level of pain that she was living with but from losing the ability to do the everyday tasks that we often take for granted.

I also point out that we need to increase awareness of the condition. When hearing Ruby's experience, I was a bit taken aback by the misconceptions that were voiced by her peers, such as, “How lucky you are to rest at home.” Those comments are unhelpful and undermine the intense agony that Ruby was enduring, so we need to make sure that we have compassion in mind.

I also stress the significance of increasing awareness from a medical perspective. CRPS is challenging to diagnose and treat. There is no specific clinical test for a definitive positive result, and patients' symptoms can vary. The NHS website states that CRPS is a condition that is “poorly understood”, and patients' symptoms are sometimes dismissed, as we have heard. It would be helpful if the minister could reflect on any steps that the Scottish Government might take to raise awareness.

Emma Harper (South Scotland) (SNP): I have been a registered nurse for 30 years and I have never heard of complex regional pain syndrome. Would it be worth exploring what the nursing universities can do to raise awareness when they are teaching our future nurses?

Stephanie Callaghan: Yes, absolutely. I hope that we can hear something more on that tonight.

In closing, I am keen to put on the record my thanks to Burning Nights, CRPS UK and others for raising awareness, providing invaluable support and education and spearheading much-needed research into CRPS. I also thank Clare Adamson for bravely sharing her family experience of CRPS and for bringing the syndrome to my attention. I hope that the debate will bring CRPS to the attention of many other people.

17:55

Douglas Lumsden (North East Scotland) (Con): I thank Clare Adamson not just for bringing the debate to the chamber but for sharing her personal story. Like her, I had never heard of CRPS before 2010. At that time, my daughter was nine years old. Like Clare Adamson, I have not spoken about this in public before.

My daughter had a sports day. Nothing obvious happened—we did not think that she got injured at all. Perhaps she took a little bit of a tumble, but kids of that age are always taking a tumble. The next day, she woke up with the most severe pain in her lower leg and foot. Her foot was a little bit red. The pain was almost indescribable. We could not even touch her slightly because she would scream in pain.

We were in hospital for tests, MRIs and X-rays, but most of the doctors told us that nothing obvious was wrong. However, as her parents, we knew that something was wrong. We spent days in hospital. Doctors were in touch with colleagues at other hospitals, and it was suggested that she had CRPS.

That was 13 years ago. Not much was known about the condition then, and it sounds as though awareness has not progressed much. There was no support at all. We did a lot of investigation on the internet, as most parents do. Because we were desperate, we reached out to a family in the United States whose daughter had a similar story and who were going through the same as us. We even bought a DVD that came from the States on possible treatments.

For my daughter, CRPS was almost like a nervous condition that was tricking the brain into thinking that something was seriously wrong. However, physically, nothing might have been wrong at all. I am not trying to say that it is all in

the head—it is certainly not all in the head. People feel real pain, but the pain felt is almost out of control and not comparable to the original injury.

For my daughter, treatment consisted of two things: medicine—gabapentin, which always sticks in my mind—and a course of intense physiotherapy. I will never forget the physiotherapy. It was almost like we were torturing her. We knew that we had to break the cycle somehow, so we were trying to get her to walk again. She was screaming in pain, and the physiotherapist was almost forcing her to put her foot on the ground, even though that must have been hellish for her. We felt that we had to do something.

A little bit more help is available nowadays. I applaud all the charities that have been mentioned and are helping in relation to CRPS. What my daughter went through was horrendous, but her outcome was a lot better than that of most people with the condition. I hope that, with more awareness, diagnosis can be quicker and easier. As awareness grows, I hope that there will also be better treatments.

I thank Clare Adamson for telling her story. I hope that we can improve the situation for many people for years to come.

17:59

The Minister for Public Health and Women's Health (Jenni Minto): I, too, thank Clare Adamson for her speech. Annie Wells wrote down the same words as I did: brave, emotional and personal. That is absolutely right. I also thank Douglas Lumsden for sharing his story.

As others have done, I acknowledge that November 2023 was the 25th complex regional pain syndrome awareness month. That is an incredibly important event across the world to mark this serious but poorly understood condition.

I will also take this opportunity to commend all of the volunteers, organisations and communities for their hard work in raising awareness of CRPS. I commend in particular CRPS UK and Burning Nights CRPS Support for all the important work that they do for the CRPS community and beyond.

Today's debate has provided us with a chance to highlight the impact of CRPS and to reflect on the challenges that are faced by people living with the condition. The Scottish Government is committed to ensuring that people with CRPS can access the right care in the right place at the right time. As Rona Mackay said, hearing stories such as those that we have heard tonight makes such a difference. I also commend the work of the cross-party group on chronic pain, which helps us to establish and understand the impact.

As has been illustrated tonight, when talking about CRPS, we must remember that everyone's experience of pain and the condition is unique. People need support that addresses their individual needs. I understand how distressing the condition can be, but I also understand how people can regain control of their lives and improve the quality of their lives with the right information and support.

However, many do not feel that they have access to the support that they need, which is why, in November, we published the updated framework for the pain management service delivery implementation plan. The plan sets out priorities for improvement of care and services. It has been informed by people with chronic pain—including those with CRPS—and it outlines actions that we will take to support people with pain to live well. The framework was developed through extensive engagement with people with chronic pain, our services, clinicians and the third sector, and it includes a public consultation on the draft of the framework.

We understand that the majority of people with CRPS access support in community settings, and we recognise that there are opportunities for improvement. Given the varying impact that CRPS has on general health and wellbeing, different people require different levels of support that are tailored to their unique circumstances. We need to promote new approaches to delivery so that specialist services are more accessible and sustainable for the future. We will continue to work with service managers, our clinical networks and the centre for sustainable delivery to include and introduce new ways of delivering care, create additional capacity and redesign pathways into specialist pain services.

We have heard about the variation in management and treatment options across Scotland. My officials have taken note of some of the points and suggestions that have been made, and we will look into them—specifically those on meeting CRPS UK and Burning Nights CRPS Support.

I want to be clear that it is our expectation that every person with CRPS has access to high-quality, evidence-based and effective support to help them to manage the impact of their condition, no matter where they live. Together, the actions in our framework will provide a better experience of services for people, improved co-ordination of care between community-based and specialist services, and better outcomes for care and treatment.

Clare Adamson and Carol Mochan mentioned issues related to research. NHS Research Scotland's pain network, which is funded by the Scottish Government through the chief scientist

office, brings together around 200 researchers across multiple disciplines to promote collaboration and to share pain research activity and findings. The chief scientist office directly funds research projects, so any projects on underlying causes, treatment or management of pain are very welcome.

Tonight's debate has informed us that many people who live with complex regional pain syndrome feel that the impact of their condition is often overlooked or ignored by society. People with CRPS also need services that recognise pain and offer effective support for the challenges that they face in their daily life. That is why we are taking action to embed awareness and skills in management of chronic pain and associated conditions at all levels of the NHS workforce through a pain-informed approach. However, I note some of the other points that have been made, and we will also look at other options around those.

I recognise the work that third sector organisations are doing in this area. We have heard how challenging it can be to find clear and consistent information. In response, we have established a pain management national working group, which is dedicated to overseeing improvement in the co-ordination of information and resources at the national and local levels. That is to ensure that we deliver more useful and appropriate national advice about chronic pain and associated conditions, as well as better information on the steps that people can take to manage its impact and how they can access further support and services when they need it. I am pleased to say that, this year, as a result of that work, the chronic pain pages on the NHS Inform website were updated.

People with CRPS are already experts on their condition, but we know that many benefits from additional supported self-management are offered by our partners in the third sector. We have established a dedicated third sector network to improve partnership working in our public services so that people can access a wider range of options for support. The network includes stakeholders such as Versus Arthritis and Pain Concern, which provide support for people with CRPS, and I am grateful for their contribution and the important work that they continue to do.

We also understand that people who are living with CRPS face challenges in accessing local services when they need them, and that that has an impact on their wellbeing and opportunities for earlier and more effective intervention. Our framework includes an aim on accessible care, with specific actions to improve how local and national services are delivered to provide a more

co-ordinated and consistent experience. We will do that by sharing best practice, promoting innovative new approaches to service delivery and improving how services understand the needs of their local populations. That supports the approach that we have taken to date to improve how specialist pain services work in partnership and share expertise with primary care colleagues.

I thank members for their contributions. As I said earlier, my officials and I have noted suggestions and we would be happy to meet members and the charities. We have been improving referrals and access to the Scottish national residential pain management programme, which provides the highest level of care for people who have chronic pain. The Scottish Government funds the programme to the value of about £630,000 a year.

I reiterate the Scottish Government's commitment to increasing awareness of complex regional pain syndrome and its impact or, as Rona Mackay said, to opening the gate to improving everyone's understanding. We will continue to listen, learn and act to make sure that people who are living with CRPS can access safe, effective and person-centred support to help them to manage their condition and live well.

Meeting closed at 18:07.

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