OFFICIAL REPORT
AITHISG OIFIGEIL

Education, Children and Young People Committee

Wednesday 24 January 2024

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

Wednesday 24 January 2024

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EDUCATION, CHILDREN AND YOUNG PEOPLE COMMITTEE
2nd Meeting 2024, Session 6

CONVENER

*Sue Webber (Lothian) (Con)

DEPUTY CONVENER

*Ruth Maguire (Cunninghame South) (SNP)

COMMITTEE MEMBERS

*Stephanie Callaghan (Uddingston and Bellshill) (SNP)
*Pam Duncan-Glancy (Glasgow) (Lab)
*Ross Greer (West Scotland) (Green)
*Liam Kerr (North East Scotland) (Con)
*Bill Kidd (Glasgow Anniesland) (SNP)
*Ben Macpherson (Edinburgh Northern and Leith) (SNP)
*Willie Rennie (North East Fife) (LD)
*Michelle Thomson (Falkirk East) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Miles Briggs (Lothian) (Con)
Natalie Don (The Minister for Children, Young People and Keeping the Promise)
Roz McCall (Mid Scotland and Fife) (Con)
Martin Whitfield (South Scotland) (Lab)

CLERK TO THE COMMITTEE

Pauline McIntyre

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Education, Children and Young People Committee

Wednesday 24 January 2024

[The Convener opened the meeting at 09:02]

Children (Care and Justice) (Scotland) Bill: Stage 2

The Convener (Sue Webber): Good morning, and welcome to the third meeting in 2024 of the Education, Children and Young People Committee. The first and only item on our agenda this morning is day 1 of consideration of the Children (Care and Justice) (Scotland) Bill at stage 2.

I welcome the Minister for Children, Young People and Keeping the Promise and her supporting officials to our meeting. I note that the officials who are seated at the table are here to support the minister but are unable to speak in the debates on the various amendments. Members should therefore direct all their comments or questions for the Scottish Government directly to the minister.

Before we begin in earnest, I will briefly explain the procedure that we will follow for everyone who is watching and perhaps for some in the room. The amendments that have been lodged to the bill have been grouped together and there will be one debate on each group of amendments. I will call the member who lodged the first amendment in each group to speak to and move that amendment and to speak to all the other amendments in the group. I will then call any other members who have lodged amendments in the group. Members who have not lodged amendments in the group but wish to speak should catch my attention. If Ms Don has not already spoken on the group, I will then invite her to contribute to the debate. The debate on the group will be concluded by my inviting the member who moved the first amendment in the group to wind up. Members should have this information on a sheet of paper as well.

Following the debate on each group, I will check whether the member who moved the first amendment in the group wishes to press it to a vote or to withdraw it. If they wish to press ahead, I will put the question on that amendment. If a member wishes to withdraw their amendment after it has been moved, they must seek the agreement of other members to do so. If any member who is present objects, the committee will immediately move to a vote on the amendment. I hope that you are all keeping up. If a member does not want to move their amendment when called, they should say, “Not moved.” Please note that any other member who is present may move such an amendment. If no one moves it, I will immediately call the next amendment on the marshalled list.

I remind everyone that only committee members—not substitute members, Mr Whitfield—are allowed to vote. Voting in any division is by show of hands. It is important that members keep their hands clearly raised until the clerk has recorded the vote.

The committee is required to indicate formally that it has considered and agreed each section of the bill, so I will put a question on each section at the appropriate point.

Now that we have covered the housekeeping matters, we can start the substantive business.

Before section 1

The Convener: Amendment 164, in the name of Martin Whitfield, is in a group on its own.

Martin Whitfield (South Scotland) (Lab): It is a pleasure to take part in this stage 2 debate. For the purpose of practice, if nothing else, it may be beneficial that there is only one amendment in this first group.

Amendment 164 aims to highlight the importance of the purpose that underpins the bill, which is to promote the wellbeing and rights of children in the children’s hearings system and the criminal justice system. That was reflected in the policy memorandum that was published when the bill was introduced, but clearer evidence as to the purpose behind the bill should be given in the preamble.

I move amendment 164.

The Minister for Children, Young People and Keeping the Promise (Natalie Don): It is certainly fitting that we begin stage 2 consideration with an amendment that brings us back to the fundamentals of why the bill is important.

Recognising, respecting and promoting children’s rights across Scotland has been and remains at the heart of the Government’s vision. Just last week, the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill received royal assent and became an act. We also have a shared commitment in the Parliament to keep the Promise to people who have experience of Scotland’s care system. There could scarcely be a more pertinent backdrop to highlight the imperative on us in the Parliament to uphold the welfare and advance the rights of Scotland’s children.

I hope that we can all keep those objectives at the front of our minds as we consider amendments on the specifics of the bill over the coming weeks. Regrettably, some proposed amendments that have been lodged by Opposition parties not only undermine what we had until now understood to be cross-party commitments and points of consensus on the agenda, but are regressive in the current situation.

Although I understand the sentiment behind amendment 164 and agree with the reason that Mr Whitfield outlined for lodging it, a purpose clause such as the one that he proposes is not necessary. The long title of the bill already lists the bill's purposes in more detail, and the Scottish Government has been clear on them in the accompanying documents and in evidence to, and statements in, Parliament. Those are the right places to record the bill's purposes.

The purpose clause that is proposed in the amendment would not work in relation to a bill of this nature. The bill contains almost no freestanding, self-contained provisions. Instead, it achieves what it sets out to do by amending 20 other pieces of legislation. Inserting at the outset a purpose statement such as the one that is proposed would blur the required nuances and leave too many unanswered questions as to how it applied to those enactments. Simply put, it would not add anything to what is set out in the substantive amendments to the other enactments throughout the bill.

Some of those other enactments already contain their own overarching statements of purpose or general principles. For example, section 23A of the Children (Scotland) Act 1995 requires local authorities, when exercising functions in relation to looked-after children, to

"have regard to the general principle that functions should be exercised in relation to children and young people in a way which is designed to safeguard, support and promote their wellbeing."

Section 21 of the bill seeks to amend the 1995 act to ensure that children who are detained in secure accommodation by virtue of being remanded in custody or convicted of an offence are treated as looked-after children. I am not sure how Mr Whitfield's proposed general purpose section would sit within the general principle in section 23A of the 1995 act.

As I said, the aims are clear as a matter of established Government policy and action. I am afraid that I cannot support amendment 164 and I urge Mr Whitfield not to press it. If it is pressed, I urge the committee to reject it.

Martin Whitfield: I am slightly disappointed by the minister's response. There is almost a contradiction between seeking the nuance that the bill and its amendments contain and saying that my amendment 164 would blur the overall view. The promotion of the rights of children and their wellbeing should sit at the heart of anyone in Scotland, particularly when children come into contact with the children's hearings system and the criminal justice system. Under the circumstances, I will press the amendment.

The Convener: The question is, that amendment 164 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Kerr, Liam (North East Scotland) (Con)
Rennie, Willie (North East Fife) (LD)
Webber, Sue (Lothian) (Con)

Against

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 164 disagreed to.

Section 1 agreed to.

After section 1

The Convener: The next group of amendments is on "Children's hearings system: rights and welfare issues for the child". Amendment 165, in the name of Martin Whitfield, is grouped with amendments 167, 166, 170, 171, 119 to 121, 172, 177 and 182.

Martin Whitfield: This group of amendments deals with rights and welfare issues in the children's hearings system. I have lodged a number of the amendments in the group.

Amendment 165 simply seeks to insert "and rights" after "welfare". Following the passing of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill and given the progress that Scotland is making with regard to children's rights, it is opportune to put into legislation the fact that rights are important to us.

I will spend a short time dealing with my other amendments in the group.

Amendment 170 deals with young people with additional support needs. There has been an increase in the number of young people identified with additional support needs across Scotland. Young people who have an additional support needs diagnosis or who identify as having additional support needs without necessarily

having a medical diagnosis are vulnerable, and the way in which they interact with adult institutions and the children's hearings system in particular requires an approach that is very sensitive to their particular and individual needs.

I have had an opportunity to meet the Government with regard to that matter, and I understand that proposals are coming forward. I do not know whether the minister wants to deal with those proposals in her contribution, but I might take a different position with regard to amendment 170.

09:15

I know that other members are going to speak to amendments in the group, but I would like to take a moment to consider amendment 171, which is on transition to adulthood. That amendment deals with the period of time when our young people are transitioning into adulthood and the levels of support that they rightly expected while they were young start to move away. The structures that are there to advise, support and, on occasions, pick up tend to distance. The purpose behind amendment 171 is to support that transition.

I may wish to comment on a number of amendments that have been lodged by other members at the appropriate period but, given the shortness of time, I will leave things there, convener.

I move amendment 165.

Miles Briggs (Lothian) (Con): Good morning, members. My amendments 119 to 121 are probing amendments that I lodged as a result of work that I have been doing in Parliament around neurodevelopmental pathways.

It is quite clear that, for children in Scotland and their parents and guardians, seeking an assessment—for example, for autism—does not result in a pathway towards other potential assessments, such as for attention deficit hyperactivity disorder. My amendments would provide for a referral for an additional assessment. I hope that that will be considered not only for this bill but for future bills that the Government introduces to improve the situation.

Previously, I have raised constituent cases with the minister. I have permission to share the case of a mother of two boys in Lothian who received an autism diagnosis through NHS Lothian some years back. However, she watched her boys struggle to function at school and in society for up to six years before taking them for a private assessment for ADHD. Both were diagnosed with autism and ADHD, and they were given the necessary support and medication, which has transformed their lives and their family life, too. I believe that we should also see that pathway developed for children in the care system, and I hope that the minister will support that.

Pam Duncan-Glancy (Glasgow) (Lab): Good morning, colleagues. My amendment 172 would put a duty on the principal reporter, in a case in which he or she identifies that a child who is subject to proceedings

"has, or is likely to have, a close connection with a person who has"

carried out domestic abuse under section 66(2) of the Children's Hearings (Scotland) Act 2011, to refer that young person

"to a provider that specialises in domestic abuse support."

I believe that the amendment acknowledges the unique vulnerabilities that children in situations of domestic abuse have and that those who witness domestic abuse can suffer emotional, psychological and developmental challenges.

The amendment emphasises the need for targeted intervention that is delivered by appropriate professionals who are equipped to address the needs that can be born out of the complex trauma that those children face. It would also provide an opportunity for early intervention by having a touch point early on in the state's involvement with a referral, and to take an approach that I believe should be replicated across legislation, where appropriate.

I urge colleagues to support my amendment. I also encourage them to support Martin Whitfield's and Miles Briggs's amendments in the group.

Willie Rennie (North East Fife) (LD): Victim support organisations have concerns relating to the ability of the children's hearings system, as currently funded, to manage an increased volume of serious offences. It is therefore important that the outcome of those cases and the impact on the persons harmed are monitored so that we have access to the necessary information to shape the system in the future.

I want the outcome of referrals to the children's hearings system that involve an offence to be monitored. That includes referrals on welfare grounds that involve offending behaviour. Monitoring would include the numbers of referrals on offence grounds, offence type, outcomes, age, gender and council area. There should be engagement with the people harmed by children and victim support organisations to provide feedback on experiences.

I will briefly comment on Pam Duncan-Glancy's amendment 172, which we will support, alongside the other amendments in the group. Local authorities already provide domestic abuse support. It should not be a requirement for a

person to have to go to court or a children's hearing before they can access such provision. We want to ensure that local authorities do not set a higher bar for access to such support. Otherwise, we support the amendments in the group.

Pam Duncan-Glancy: Forgive me, convener. I missed my colleague Willie Rennie's amendment 182, which we will also support.

Natalie Don: My response will be quite lengthy, given the number of amendments in the group, but I will try to be as concise as possible. I will take each amendment in turn.

The Government has a number of concerns about this group of amendments. Amendment 165 would change the focus of the test that is to be applied across the scope of the Children's Hearings (Scotland) Act 2011 and would, by definition, imply that children's rights are to be given the same weight as their welfare. We know that, in some cases, that simply cannot happen, as there may be an unavoidable conflict between welfare and rights. We must remember that welfare is the primary indicator for safeguarding children who are referred to the hearings system, and it has been for many years.

More broadly, on the issue of rights and existing requirements, the children's hearing or court will also consider the potential impact of any decision, as they already have extensive obligations under the European convention on human rights and the UNCRC, and, as public authorities, they must act in a way that is compatible with those conventions. Therefore, the necessary balance of rights is already achieved under the existing provisions in the bill. On that basis, I could not support amendment 165.

Martin Whitfield: It is right to say that others' rights and an individual young person's welfare can clearly come into conflict. However, when a young person's own rights and own welfare could come into conflict, I struggle to see when the decision would be that their welfare should take priority over their rights. Will the minister expand on when she sees the potential danger of a conflict between a young person's rights and their welfare?

Natalie Don: Things would be dealt with on a case-by-case basis. Every child's situation is different. I probably could not give an example in this meeting, but, as we have established, welfare and rights are different things, and welfare is the basis of the children's hearing. I would be worried about putting anything else above the idea of welfare, just in case that had an impact on children's hearings. An example could be the right to family relationships. Welfare concerns might suggest that family relationships are not a priority due to a family member's behaviour. There could be issues with family conflict, for example. I would be willing to discuss that further with Martin Whitfield, but, at the moment, we cannot support the amendment as it is worded. However, we can certainly work on that.

We understand that amendment 167 seeks to ensure that, when decisions are being made about a child under the 2011 act, decision makers do not discriminate against the child on any of the grounds that are mentioned. Although we agree with the principle, we do not think that the amendment is necessarily workable or necessary.

What is meant by discrimination and the referenced characteristics is not set out in the member's amendment. That would make it impossible in practice to effectively enforce the obligations that it seeks to impose. In addition, there is a range of statutory duties that already apply to public authorities, including the courts, the Scottish Children's Reporter Administration and Children's Hearings Scotland, which oblige them to protect children's rights and not unlawfully discriminate. Those include non-discrimination duties and the public sector equality duty in the Equality Act 2010, the requirement under the Human Rights Act 1998 to act compatibly with ECHR rights, including article 14, on non-discrimination, and duties to act compatibly with requirements under the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, which include duties in relation to non-discrimination and will come into force this summer.

All of those duties have been carefully framed and do not cut across the established law and principles of the children's hearings system. They preserve the ability of decision makers to recognise that it might be necessary to treat children differently on the basis of characteristics such as age. For example, it would be appropriate to share information only with a child who is old enough to understand it.

Pam Duncan-Glancy: I understand that some decisions will need to be taken on the basis that the minister has just described, but that is how equalities legislation works in general. It is not about treating everybody entirely the same, but about making sure that people get equal access to various opportunities and that they are treated similarly in systems. To me, that represents a bit of a misunderstanding of how equalities legislation would operate.

Natalie Don: I thank the member for the intervention. I am highlighting some relevant examples, but I have already made it clear that, because of the way in which the amendment is worded, it is not workable. There is too much ambiguity.

Recognising that all children must be treated differently while still ensuring fair treatment and the upholding of their rights is essential to a child-centred, tailored experience that supports children of different ages in the right ways. I believe that that is what the member intended. I hope that I have served some reassurance that current law and practice is sufficient to achieve that already. Decision makers are trained in equalities, discrimination and rights as part of their extensive practice requirements.

In any event, amendment 167 potentially raises legislative competence issues, given that it relates to the reserved matter of equal opportunities and may impermissibly modify the Equality Act 2010. For all those reasons, I cannot support amendment 167.

On amendment 166, members will be aware that the recent "Hearings for Children" report included a recommendation to commence section 3 of the Children (Scotland) Act 2020 and that the Government accepted that recommendation without qualification. Although there have been obstacles to its implementation, I am advised that a request to consider what is required in court rules is now with the rules council in relation to UNCRC incorporation. That will remove a key barrier to the implementation of the provision in the 2020 act. In essence, the requirements envisioned by section 3 will become an obligation under the UNCRC.

In practical terms, the provision covers the good practice that is already well established in the children's hearings system, and discussions have taken place with the system about formalising its training and resourcing requirements. It was essential that the Government was able to do that preparatory work to ensure that the responsible agencies are ready.

I hope that that assures the member and the committee that that work is being expedited. Our intention is to commence the section within the timescales that are set out in amendment 166. I am happy to provide Parliament and the committee with an update on progress ahead of stage 3, if that would be desirable.

I am, therefore, opposed to amendment 166. I do not think that it would be helpful or necessary for us to tie in the commencement of an entirely separate piece of legislation in that manner. By tying the duty to commence section 3 of the 2020 act to royal assent for this bill, the amendment would probably be unworkable in practice.

I appreciate the intention of amendment 170, but we must be clear that all children who are referred to the children's reporter are, in some way or other, vulnerable and that it is unhelpful to attempt a definition in this way. Taking into account the whole circumstances of a child's life is at the heart of the welfare-based approach adopted by the system. By labelling some children as inherently vulnerable by virtue of certain characteristics, we risk creating a two-tier approach. Amendment 170 risks minimising consideration of other factors that might make a child vulnerable while legislating for certain characteristics that may not.

Furthermore, the amendment does not take account of the fact that children's hearings in the courts are decision-making forums. It is not their role to provide support services—that is the responsibility of public authorities. When particular on-going support services are required, panel members may make a compulsory supervision order that requires that others provide those services to the child, but that is a decision for the panel as an independent tribunal. The amendment would cut across that independence by enforcing provision of enhanced support to certain children, whether or not it was deemed necessary.

When additional support is required to enable a child to attend and effectively participate in their hearing, the Scottish Children's Reporters Administration enables that support to be in place. For example, the SCRA has a network of neurodiversity champions working across all front-line localities. Members of the network are available to assist staff in ensuring that arrangements for hearings in court are tailored to suit individual needs, and they can arrange for translation and interpretation services when those are required. All children's reporters receive training on domestic abuse, which is delivered in conjunction with Scottish Women's Aid, and the SCRA is in the process of training all staff in trauma-informed practice.

09:30

It should also be noted that, in 2020, the Scottish Government introduced independent advocacy services that are available to any child who needs to attend a hearing. Advocacy workers can enable a child's effective participation in a hearing and ensure that their views are communicated to decision makers. Although it is not the role of the hearing to provide support services, I understand the sentiment behind the amendment. Again, if Mr Whitfield does not move amendment 170, I am more than happy to engage with him on the matter ahead of stage 3.

The Convener: I call Martin Whitfield—

Natalie Don: I am sorry, convener, but I still have a lot to say.

The Convener: You are clearly not allowed to take much of a breath, minister. [*Laughter*.]

Natalie Don: I just needed some water.

I appreciate that amendment 171 intends to mitigate concerns about 16 and 17-year-olds as they transition to adulthood. However, the Government has issues with the amendment. As is noted in the policy memorandum for the bill, it is desirable to smooth the transition with regard to the supports available to children as they move into adulthood.

That is particularly relevant when a child has required statutory intervention on a compulsory basis. That is why the bill as introduced made provision to ensure that the local authority has a duty to provide support should the hearing decide that on-going supervision and guidance are likely to be helpful to the young person whose order will be terminated. If the young person is in agreement, the local authority will continue the relationship without compulsion on the young person up to the age of 19.

That makes appropriate provision to ensure that the young person does not fall through the cracks, as they will already be known to the local authority. The provision strikes the right balance by allowing a children's hearing to place duties on local authorities to provide support for children who have required compulsory supervision measures when their order is no longer needed or has to be terminated due to the age of the child.

I recognise that the member might think that amendment 171 could fill a gap for older children who are referred to a hearing when an order is not made. However, the principal reporter must consider a child's case in those instances and, in doing so, might make a determination for voluntary support and guidance as needed.

It should also be noted that amendment 171 does not define the term "transition to adulthood". In practice, that will mean different things to different young people. It will be achieved in various ways and to varying timescales from child to child. Therefore, I am not able to support amendment 171.

Although I am sympathetic to the sentiment behind amendments 119, 120 and 121, which are well intentioned, there are a number of issues with the proposals to legislate for particular medical assessments. I thank Miles Briggs for his contribution and for the account that he provided this morning.

First, we must be mindful that children's hearings are decision-making forums rather than responsible for ensuring the assessment of children with identified medical and neurological needs. Secondly, the responsibility to provide relevant, timely and appropriate information to inform decision making by a children's hearing lies with authorities that work in the hearings system, such as social work, health and education authorities. Thirdly, there are existing well-established mechanisms under part 6 of the Children's Hearings (Scotland) Act 2011 for requesting further relevant information, where necessary and appropriate, to inform decision making. Moreover, those mechanisms are not prescriptive and, in contrast to the scope of the amendments, allow for a range of circumstances that are relevant to the case.

The additional duties proposed in the amendments could also inadvertently cut across medical expertise that has determined that existing diagnoses are not relevant or that further assessments are not necessary. That, in turn, could delay decision making or subject a child to medical examination or assessment that is neither relevant to, nor appropriate for informing, decision making by a children's hearing.

We are now more aware than ever of issues of neurodivergence, and I want to be clear that the Government is fully committed to children with additional needs being appropriately supported in the hearings system. However, ensuring that those issues are considered does not necessarily require additional specific legislative duties to be placed on the children's hearings, and nor should we place an additional statutory duty on the children's hearings or the courts when it might not be relevant to the circumstances of a case or the circumstances of a decision by a hearing or a court.

On that basis, I ask the member not to move amendments 119, 120 and 121. If the member moves the amendments, I ask the committee to vote against them.

Turning to amendment 172, again, I am in full agreement with the member about the fundamental principle of ensuring appropriate and timely access to support services in cases of domestic abuse. However, I do not necessarily agree that placing a duty on the principal reporter to ensure appropriate referral and access to providers of domestic abuse support is the right way forward.

Ensuring that those who are involved at any stage of the children's hearings process have access to specialist services at the earliest possible stage of proceedings is, of course, the right way forward, but I am not convinced that we should legislate as suggested. In common with my comments about amendment 170—on which I said that it is not the role of the hearing to provide support services—I similarly do not see it as the role of the reporter to make a determination about a referral to support services.

Pam Duncan-Glancy: So, whose role would it be to make sure that the person is referred to those services?

Natalie Don: The children's hearing would not be the first point of contact for services for somebody who is in trouble or who is experiencing that situation. That would be others, whether it was social work or the local authority. As with the comments that I made on amendment 170, it is just not the role of the principal reporter to assign someone to those services. Instead, the key requirement is to ensure that appropriate support services are available and accessible, and, as I said, that is not necessarily within the gift of the principal reporter. It is also unclear how we would define specialist services or the consistency of provision required. I therefore ask the committee not to support amendment 172.

Pam Duncan-Glancy: Would the minister be willing, before stage 3, to discuss the final point that she made about how to define the services that would be involved? If so, I would consider not moving the amendment. If the minister does not intend to work with me between now and stage 3, I might move it.

Natalie Don: I am certainly happy to discuss the matter further with the member.

Pam Duncan-Glancy: Okay.

Natalie Don: Amendment 177 includes a very broad range of conditions for considering monitoring and review if a child is not in need of compulsory measures. I am conscious that the amendment would likely apply to virtually any child who is referred. However, that does not mean that we need to legislate for further intervention or monitoring when a hearing reaches that conclusion. Local authorities already provide support and guidance to children and their families on a voluntary basis, and amendment 177 would not change or enhance that. Acting as prescribed in the amendment could potentially result in disproportionate and unnecessary interference with the child's rights.

The principle of minimum intervention—making children subject to compulsory measures only when that is absolutely necessary—is a key aspect of the children's hearings system. Ensuring that services and supports are available to children, young people and adults who require them has similarly been a long-standing requirement of Scottish statute. Our recent commitments in responding to the Promise and to "Hearings for Children" will go further in this area if necessary, following engagement and consultation with key stakeholders. On that basis, I cannot support amendment 177.

Finally, regarding amendment 182, the committee and members should be aware that significant amounts of data, broken into numerous categories, are already available through the online dashboard that is provided by the Scottish Children's Reporter Administration. The SCRA also publishes an annual in-depth and detailed analysis of its statistics, which includes data on many of the categories that are referred to in amendment 182.

We do not necessarily believe that additional legislation is required in this area. However, there is merit in further exploration of what additional material could be published as part of the annual reporting. I am therefore happy to discuss that with Willie Rennie and any other members who have an interest in the area ahead of stage 3, and to liaise with the authorities to understand the opportunities and challenges that may be presented. I therefore ask the member not to move amendment 182, to allow those discussions to happen.

In summary, I ask Martin Whitfield not to press amendment 165 and I ask members not to move amendments 167, 166, 170, 171, 119, 120, 121, 172, 177 and 182. If the amendments are pressed or moved, I ask the committee to reject them.

Martin Whitfield: I thank the minister for a very constructive contribution on several issues in areas that have been highlighted by those in the Parliament and those outside of it who take an interest in the bill. Given the undertaking from the minister, I am content not to move the majority of the amendments in my name, which I will identify for that purpose in a moment.

I am concerned about amendment 167, on non-discrimination. I am not sure that it is right to say that the amendment would run the risk of infringing on reserved matters with regard to discrimination. The minister made the argument that the issue is, in part, covered elsewhere and that there is an obligation on the various people who come into contact with young people to be very sensitive with regard to non-discrimination in the process. However, not to herald that approach or say that it should underpin the process that we are creating is a concern, given that this is the beginning of moves in relation to children's hearings.

I hear the minister's view that the committee should not support the amendment, but I will attempt to reach out. Would she be willing to discuss whether amendment 167 could return in a different form at stage 3? I am conscious of the importance of non-discrimination and the fact that it is not about treating everyone the same but is about supporting people in a process whereby their individuality is measured and accredited by those who, in effect, as the minister said, make judgment on them.

If the minister is content to do that, I will not move the amendments in my name. However, I will address that at the relevant point.

The Convener: We will take them in turn as they appear on the marshalled list, Mr Whitfield—you do not want me to lose track of where we are.

Amendment 165, by agreement, withdrawn.

The Convener: We move to the group on "Children's hearing system: victims". Amendment 2, in the name of Roz McCall, is grouped with amendments 168, 4, 5, 173, 6, 174, 176, 12, 13, 178, 14, 15, 175, 180, 17, 122, 181, 123, 183 and 184.

Roz McCall (Mid Scotland and Fife) (Con): My amendments seek to strengthen the rights of victims while not taking away from the process in the bill for change for young offenders. If we accept the premise that young people who cause harm are themselves victims of harm and therefore traumatised, we must also accept that victims, especially young victims, will most likely be from a similar background and be equally traumatised. It is essential that changes to the children's hearing system are set up to accommodate a balance.

Amendments 2, 4, 5, 6, 12 and 14 set out the considerations for young victims that are equally important and should also be at the centre of a child-based process. The purpose of my amendments is to ensure that victims are afforded protections through any court process to ensure their safety and that the rights of all children involved in the process are articulated to them.

I do not have a long speech to make, because I know that we have a lot of amendments and that time is short, so those are my comments on the amendments.

I move amendment 2.

The Convener: Time is not short, so it is fine if members want to talk in depth. We have plenty of time to scrutinise the amendments, but thank you for that, Ms McCall.

Pam Duncan-Glancy: There are several amendments in my name in this group. They focus on the importance of actively engaging with and considering the views of victims, recognising the impact on victims of behaviour that has led to proceedings and taking victims' safety into consideration when discharging the duties of the panel in the disposals.

The amendments seek to ensure a fair and responsible legal framework that aligns with the principles of justice, respects the rights of victims and acknowledges their potential vulnerability and the need to safeguard their wellbeing. In short, I believe that they balance article 39 on rights to rehab and article 12 on the right of the child to be heard. A balance must be struck to ensure that the bill and the processes that it creates remain within the scope of children's rights, particularly those in the UNCRC. The amendments in my name seek to strike that balance by satisfying the victim's right to information while safeguarding the child's best interests.

09:45

Amendment 168 makes provision for the panel or the sheriff to allow the victim, in so far as is practicable, the opportunity to express their views and to have regard to those views when making a decision whether to impose a movement restriction condition or a compulsory supervision order.

Amendment 173 looks to incorporate the impact on victims into the process by stipulating that, when a compulsory supervision order is imposed, the concerns and safety of the person affected must be taken into consideration.

Amendment 178 speaks to the safety of victims by making provision to expand the information that a victim is entitled to request to include whether a compulsory supervision order has been issued and, if so, the conditions of that order and how they are to be enforced, while amendment 180 allows the victim to be notified if such an order has not been complied with or if any review has been carried out as a result, as well as the outcomes of such a review.

Amendment 175 ensures that victims can be informed when such an order includes a movement restriction condition as well as what the arrangements specified by that condition are. Unlike some of the other amendments that colleagues have lodged, this amendment allows for the information to be withheld on the basis that sharing it could be detrimental to the best interests of the child subject to the condition.

Amendment 181 requires Scottish ministers to establish a single point of contact for the sharing of information with victims and—crucially—that that be introduced under the affirmative procedure.

I would just note that although I agree with much of my colleague Willie Rennie's amendment 122, which suggests a similar system, I also feel slightly reticent about it because I am concerned that its section (2)(a)(i) disregards any major consideration with regard to the rights and welfare of the child. I will be listening carefully to the discussion in that respect.

I support Roz McCall's amendment 4, which adds a clear provision for a compulsory supervision order to specifically prohibit the child subject to the order from entering the home,

workplace or place of education of the victim of their offences.

Martin Whitfield: Three amendments in this group bear my name. Two of them—amendments 174 and 176—cover a similar situation in that they seek to add the victim into the consideration when an MRC or CSO is made.

The other amendment in my name, amendment 184, relates to the procedural rules and speaks to the responsibility to take into account the victim's needs in decision making. We have heard a lot about transparency and the role of the children's hearings system in making decisions, and it is important that those who are closest to the situation but who are not immediately involved in the decision making are aware of what is going on and that their needs are taken into account when decisions are made.

Natalie Don: This is another quite lengthy group, so my speaking notes are again quite lengthy.

Since its inception, the children's hearings system has been a welfare-based system focused on the needs of the referred child, not a criminal justice system. Any children referred to it are referred for the sole purpose of considering the necessity of compulsory state intervention in their lives to safeguard and promote their welfare throughout their childhood.

Section 1 of the bill will enable the children's hearings system to consider the needs of any child under 18 who is referred to it. The changes under that section, which ensure consistency of approach for all children up to the age of 18, do not require any additional direction to members of the hearings system on how to make decisions. The specifics of what measures are put on a child's compulsory order can continue to be tailored to the particular circumstances of the child.

In relation to Roz McCall's amendment 2, the hearings system is generally focused on the welfare of the referred child. In the majority of cases, their welfare is the paramount consideration. However, section 26 of the Children's Hearings (Scotland) Act 2011 already recognises that, in some cases, the child's welfare has to be considered alongside other factors, specifically when a decision is necessary to protect members of the public from serious harm.

I consider that the existing law already strikes the right balance to enable a hearing to make appropriate decisions to support both the referred child and the wider public. I do not support Ms McCall's amendment 2, which would have the effect of lowering the threshold in some cases and would, therefore, tip the balance too far from the referred child and, indeed, be in conflict with the existing tests that are carefully designed to protect members of the public.

Although disposals in such a welfare-based system are interventions with consequences for a child's life, they are not punitive in the manner of the criminal justice system. It would be of great concern if the hearings system evolved into a criminal justice system for children. Therefore, I believe that I must resist amendments that diminish the decision-making focus on the needs of the child who has been referred.

I turn to amendments 168 and 184, regarding the views of victims in relation to children's hearings decisions. Those amendments appear to place victim impact-type measures in the children's hearings system and fundamentally misconstrue its welfare-based approach.

We must remember that the Lord Advocate retains responsibility for prosecutorial decisions. Any child who is referred to a hearing on offence grounds will have undergone a process in line with the Lord Advocate's guidelines and prosecution policy. Therefore, there will already have been consideration of whether the child's offending merits a prosecutorial or welfare-based approach. It would not be appropriate for a hearing to be required to gather the views of victims in that way and to take that into account in making the decision.

The hearing's focus must be through the lens of considering what compulsory measures are necessary to safeguard and promote the referred child's welfare. In so doing, it can include any measure that is necessary to prevent the child from causing harm to others.

Martin Whitfield: On that point, is there not a challenge, given that, when you have a victim who is within the children's hearings system through one part of the referral, their welfare is taken into account, but a victim who does not happen to be part of the children's hearings system, because of the circumstances of the individual referral to it, will go unheard?

Natalie Don: I am sorry, Mr Whitfield—I do not follow.

Martin Whitfield: Let me try to paint a scenario, which is not based on real events. If two young people have been involved in a criminal offence or a series of minor criminal offences, it is likely that both of those young people would come before the children's hearing. If one of those events had been a fight or a falling out between the two, where one was injured, there will be both a victim and, in old-fashioned language—which I do not mean to use about a children's hearing—an accused. One of those two children will play a dual role: as someone whose welfare is being looked at and also as a victim. In that case, the children's

hearings system must hear from the young person who is both a victim and potentially involved in an outcome, but that is only because of the circumstances of the event and is not because they were a victim of an offence. That means that a children's panel will take the victim into account simply because of the circumstances that are in front of it. How is that equitable for someone who has not been involved in an offence and is not drawn into the children's hearings system as a victim and so goes unheard?

Natalie Don: There have been a lot of discussions around the rights of victims, and I will certainly get on to that issue later. A range of support measures will be available for victims or children who are at the heart of the children's hearings system or who have experienced something like that. I feel that, if their views were sought or impacted on the decision of the children's hearings system, that would take us too far towards turning the children's hearings system into a mini-court setting.

We just need to ensure that the child at the heart of the hearing is being appropriately supported and that those measures are in place for them—and, equally, for any victim. You gave me two examples—one where one victim is involved in the hearings system and one where they are outwith it. As I said—we will get on to this later—even the young person or victim who is outwith the system would have a range of support measures available to them, although they would not necessarily have their views taken into account in the children's hearing. I do not see such an approach to victims is congruent with a welfare-based system that is trying to ensure the welfare of the child at the heart of the system. I hope that that answer helps.

Pam Duncan-Glancy: I appreciate that this has been a lengthy discussion, but, particularly in relation to amendment 168, I do not see how taking into consideration a victim's views on this point—which are taken into consideration only with regard to the discharge that is available to the panel—detracts from a welfare-based approach.

Natalie Don: As we have already discussed, the panel members are trained in trauma and numerous other areas in order to understand what might be best for a child at the heart of the welfare system. I am sorry, but I do not see how the views of the victim could be relevant to the welfare of the child at the heart of the system. Obviously, the views of the victim are extremely relevant in terms of their own situation, but not in terms of the decisions that are made for the child at the heart of the hearings system. I do not think that I can be any clearer than that.

Changing the ethos of the hearings system in the manner outlined in amendments 168 and 184 would undermine its principles and move it towards a court-type system. In addition, it would be difficult in practice, in the context of a children's hearing, to seek the views of a victim without causing delay to the progress of the child's case, as it would take the focus away from decisions being made as quickly as possible in order to safeguard and promote welfare.

On amendments 4, 5, 6, 173, 174 and 176, which relate to measures and CSOs to protect victims, the bill already includes two new prohibitions in section 3. That section, which amends section 83 of the 2011 act, gives children's hearings greater choice when deciding on which measure—or which combination of measures—is necessary to assist the child in refraining from negative behaviours.

Amendment 6 is not necessary. Hearings are already required to consider whether a direction regulating contact is necessary. In seeking to prevent, on a blanket basis, any contact between a child and a

"person affected by"

their

"offence or behaviour",

the amendment is not consistent with the child-centred approach of the hearings system and might not be compliant with UNCRC or ECHR in particular cases.

Likewise, amendment 173 is not necessary for the purpose of making the order specific to the circumstances of the offence or to the safety of the person affected. The children's hearing is already required to consider the consequences of a child's offences or behaviour, and it must in every case already consider the established facts of the grounds of referral, which, for an offence ground, would include the details of an offence. Given that the disposals that are open to a hearing range from discharging a referral to home supervision and deprivation of liberty, it is evident that hearings' decision making already takes into account that a measure might be needed to address the safety of others in response to the circumstances of an offence.

Amendments 4 and 5 are not required either, because the section to which they relate has been worded in a general way deliberately to align with section 83 of the 2011 act and would cover victims and the places that they attend. I therefore ask that amendments 4 and 5, in the name of Ms McCall, which seem designed to clarify what is meant by "person", not be moved, as they do not seem to add anything that is missing. Again, if Ms McCall is minded not to move her amendments, I would be happy to discuss an alternative wording or form for stage 3.

Similarly, I do not consider that similar adjustments to provisions in sections 4 and 5 as a result of amendments 174 and 176, as proposed by Martin Whitfield, are necessary. The tests for an MRC and for secure accommodation authorisation are clear, in so far as they apply where a referred child

"is likely to cause physical or psychological harm to another person",

and an ordinary reading of the word "person" undoubtedly includes any person harmed by the referred child. Again, I wonder whether Mr Whitfield would be minded to withdraw his amendments, because I am more than happy to explore the matters further in advance of stage 3.

10:00

Amendments 12 to 15, 175 and 180 concern the provision of information to victims, which I appreciate is an issue that has been highlighted throughout stage 1. Government amendments 13 and 15 extend the existing powers of the principal reporter to share information under section 179C of the 2011 act. The amendments will mean that, except in limited circumstances, a victim can receive details about relevant measures that a hearing has made in a compulsory order that has the effect of prohibiting contact between them and the referred child, including further details from review hearings when a measure is continued, varied or terminated. That will include movement restriction conditions. Similarly, if a hearing considering a child's case concerning an offence or harmful behaviour decides to make a secure care authorisation, that can be shared, too. I should say that I consider it necessary to develop regulations that will improve support for victims in understanding hearing decisions, and I will mention them shortly when I discuss amendment 17.

Amendments 12 and 14 risk information being shared with a victim that could be detrimental to the referred child or to a child other than the child victim in the case. They would also remove the reporter's discretion not to share in other circumstances when doing so could be inappropriate—for example, where to do so would adversely affect an adult victim. The bill—and amendments 13 and 15, which I have lodged—extends the provision of information to victims, and there is no intention to restrict the sharing of information, except in the limited circumstances that are already set out in section 179C of the 2011 act and are well understood.

It is a rarely used measure, but I understand from the SCRA that it is sometimes necessary to withhold information in cases where there is a concern about the safety or welfare of any child, including the referred child, if the information is provided, and where there are concerns about how the information will be used by the victim or the victim's family. There are examples of information being circulated through social media or in local campaigns against some children who have been subject to hearings, so those exceptions are necessary, although I would expect them to be used in extremely isolated cases.

If agreed to, the Government's amendments 13 and 15—on which I have had very positive engagement with victims organisations—will adequately address the matters raised in Ms Duncan-Glancy's amendments 175, 178 and 180. In effect, amendments 13 and 15 ensure that, if a victim is named in a child's order, they will be told about it; if the child is on a movement restriction condition and is not to approach them, they will be told; and if the measure is terminated at review or is varied or continued, they will be told. Once the child attains the age of 18 and the order naming them is terminated, they will be informed. That, together with the support services that I will outline shortly, will give them the information that they need to understand what measures are in place and when they will end. I therefore ask Ms Duncan-Glancy not to press her amendments at this time. However, if there are other areas that she still remains concerned about, I am more than happy to discuss them ahead of stage 3.

On Government amendment 17, I am aware that the balance of rights surrounding the children's hearings system has been a key theme of the debate arising from scrutiny of the bill to date. The committee has heard some very powerful testimony on the effects that a child's offending behaviour can have on those who are harmed, and the Scottish Government is committed to ensuring that victims are treated with compassion, that their trauma is recognised and that they are supported.

The consultation on the bill's proposals before it was introduced to Parliament asked whether a single point of contact should offer support for a person who has been harmed, and the proposal was supported by 97 per cent of respondents. I am also aware that recommendation 287 of the committee's stage 1 report endorsed provision of such a service.

The Scottish Government always intended to support provision of that kind for commencement of the legislation. It does not strictly require a statutory duty to ensure that it is provided—that can be done administratively—but I have listened carefully to the very strong views and the strength of feeling on the matter. As such, amendment 17 places a direct duty on Scottish ministers to provide, via secondary legislation, a support service that is not restricted to a single point of contact. The provision has been drafted

deliberately to avoid being overly prescriptive at this point and to build in maximum flexibility for the development of the service in the future.

Pam Duncan-Glancy: I appreciate the minister's explanation of amendment 17. Would there be any scope at stage 3 to consider using in amendment 17 the affirmative rather than the negative procedure to give more scrutiny of that regulation to parliamentarians?

Natalie Don: If the member does not mind, I would just point out that that is covered in what I am about to say. I will get on to that as I speak.

Amendment 17 also contains detail on the persons that such a service would apply to and what might be provided in terms of such support as well as providing a non-exhaustive list of statutory consultees. The Government has had in-depth discussions with victim support organisations, which have helped inform the amendment. At this point, I thank the committee for altering the stage 2 deadline, as it has allowed much more room for discussion of the topic.

I think that we can all agree that qualitative research would be welcome in this area to ensure that we are maximising, within the confines of the law, what would be helpful for persons reporting offences by children whose situations are dealt with by the hearings system. Work has already begun between SCRA and Victim Support Scotland on a research proposal, with interim reports planned for autumn, and it will look at gaining an increased understanding of how and by whom the victim information system in SCRA is used; understanding the experiences and needs of victims; understanding the experiences and needs of the children who have harmed others; understanding models of victim information and support provision; and identifying whether SCRA's victim information service should move from an opt-in to an opt-out service.

That research has been scoped and will start in February 2024, with an interim report in July to October this year and a full report expected in February 2025. The work merits meaningful research, as the committee will appreciate, and it will take time for it to be done properly.

I am conscious that there are similarities between my amendment 17 and amendments 122 and 181, which have been lodged by Willie Rennie and Pam Duncan-Glancy respectively. I will first highlight some aspects in relation to amendment 122 and why my preference is to pursue the Scottish Government's amendment 17.

First, amendment 122 is restricted to information sharing. It does not extend to other support services for victims, and it is less flexible than amendment 17.

Secondly, some of the specifics of amendment 122 go beyond what would be appropriate to share with victims. For example, I am concerned that they could enable the sharing of information to the detriment of a child's welfare and privacy.

Thirdly, amendment 122 could result in the sharing of information in a situation where a child moves from secure care to prison, which is not a disposal that can happen in the hearings system.

Finally, amendment 122 would also have the effect of imposing an opt-out service on victims, meaning that they would receive information about decisions made about a referred child unless they took action to stop it.

As I have highlighted, SCRA and Victim Support Scotland are working together on a research project that will consider the current opt-in service and whether there is any need for change and on which they will engage with those with lived experience of the current service. It would be prudent to await the results of that study before effecting any change.

I am happy to engage further with Willie Rennie on the detail of my amendment, if that would be helpful, particularly to reassure him that what amendment 17 will achieve will be more beneficial to victims. I should highlight that the regulation-making duty in amendment 17 will also require prior consultation and engagement, including with victim support organisations.

The aims of amendment 181, in the name of Ms Duncan-Glancy, are similar to those of amendment 17, but it is restricted to a simple single point of contact provision. Amendment 181 does, however, prescribe regulations that are subject to affirmative procedure rather than the negative procedure outlined in amendment 17. If Pam Duncan-Glancy is amenable, should the Government amendments be supported, I will be open to discussion on that point, as the member has suggested, ahead of stage 3. With that said, I must ask members with amendments in this area to consider whether they still wish to move them.

Finally, I wish to address amendments 123 and 183, which concern reporting duties in relation to victims and movement restriction conditions. Amendment 123 potentially creates significant demands relating to victims' experiences of the hearings system on a range of agencies. Some of that information is already published; for example, SCRA publishes offence referral data annually, which is broken down by offence type. However, the additional information stipulated in the amendment could lead to an incomplete and misleading representation of victims in the hearings system, and it is not clear to what end. How agencies collect and retain information in

relation to victims varies according to their role and functions.

The SCRA victim information service does a huge amount of work to identify victims through the referrals received from police and, for a wide range of reasons, a victim is not always identified in the information provided. The age profile of the victim is also not always identifiable from the information that the SCRA has available. Any work in that area must be attentive to the considerations around sensitive data, how that data is shared, what is published and for what purpose. It would perhaps be more appropriate to deal with that through qualitative research in conjunction with appropriate victim support organisations.

Any information and support that a victim receives must be given sensitively and in confidence. Detailed reporting on the information and support given to victims is likely to be incomplete, and it is not clear what value it adds. In any case, general information on the kind of things that agencies can do for victims is otherwise available.

Likewise, in relation to amendment 183, as I mentioned earlier, significant amounts of data are already broken into numerous categories and are available through the online dashboard provided by the Scottish Children's Reporter Administration. The SCRA also publishes an annual, in-depth and detailed analysis of its statistics and details of MRCs, and that will be available from next year onwards in its annual report.

The amendment, as framed, extends further than the information that can be provided by the SCRA, and it is difficult to know at this stage the extent to which the use of MRCs will change. If the numbers stay low, the victim experience, for example, will not be capable of meaningful analysis. However, there is merit in having further discussions on how to enhance the transparency of MRCs and other relevant measures for victims of cases referred to the children's hearings system in future, without the need for legislation. If Willie Rennie is in agreement, I ask him not to move his amendment in order to have those further discussions.

I will move amendments 13, 15 and 17. As I cannot support the other amendments in the group, I ask members not to press them and, if they are pressed, ask that the committee reject them.

Willie Rennie: I have three amendments in the group, so I will go into a little bit of detail. I apologise.

The purpose of my amendment 122 is to establish an information-sharing system between the children's hearings system and the single point of contact service or elected victim support organisation. It will be based on a robust assessment of the risk posed to the victim or person harmed by the subject child. The degree of information that is provided to the victim will depend on the level of risk that is established by the assessment.

The aim of the amendment is to successfully balance the subject child's right to privacy with the rights of the victim to information and support to recover, especially if they are a child. That will help to ensure that UNCRC rights are being fulfilled, where possible, for all children and not just the subject child. The right to privacy is important. However, it is not an absolute right and should not infringe other people's rights to safety or recovery. An objective and robust risk assessment is the best way to achieve a balance of those rights.

I am proposing a three-tier system. The first tier is the information that all victims will be entitled to, whether or not their case is reported to the SCRA system, and when it is processed through the children's hearings system. The SCRA should operate that opt-out information system. All victims should be entitled to information about both how the system works and victim support resources. They should get basic information on the dates of hearings and the final decision of the hearing. They should also be told if the case has not been referred to a hearing. That is the basic level.

The second tier would provide further case-specific information, particularly in relation to compulsory supervision orders, when it is deemed that the child poses a significant risk of harm to themselves or others. It will include information on how a CSO works, dates, conditions and what happens if the rules are not stuck to. All of that should enable a victim to plan for their own safety. Conditions under the CSO that relate to engagement with social work or personal details about the subject child will not be allowed to be shared. That would not be appropriate.

10:15

The third tier of information sharing will be reserved for cases in which the panel has deemed that the subject child must have their liberty restricted in secure accommodation due to the risk to the person who has been harmed or to the wider public. That will be in cases in which an offence has taken place. However, that will not be restricted to referrals on offence grounds.

Under the third tier, victims will be notified when the child is released from secure accommodation or transferred to an adult prison. The information that is provided should, where possible, replicate that which is provided through the victim notification system in the criminal justice system.

Of course, victims can opt out of that. They can also choose to communicate through a trusted adult.

I am pleased that the Government has introduced amendments 13, 15 and 17 to share information with regard to CSOs—amendment 13 is particularly relevant in that regard. However, I cannot understand why the Government has not introduced an amendment like mine, which empowers the reporter to carry out a risk assessment for all child subjects and their victims. By restricting the scope, the Government potentially restricts the powers and discretion of the reporter to inform and share. It would be beneficial for all victims to have a basic understanding of how the system works and what they might expect. The dates of hearings that are included in tier 1 do not include private or personal information.

I urge members to support amendment 122. It is comprehensive—it does not cover only CSOs. It empowers the reporter and it is tiered depending on severity, so it is sensitive and more sophisticated.

Natalie Don: Will the member give way?

Willie Rennie: Certainly.

Natalie Don: I have set out how far the Government amendments go and I have agreed that there is scope for us to go further. It would be prudent for the member and I to discuss any areas of concern that he still has, such as those that he has just mentioned, ahead of stage 3. As I said, we can certainly look at that instead of pressing on with the amendments in their current form.

Willie Rennie: Okay. I would prefer more of a reassurance than a discussion, because I think that we have got to—

Martin Whitfield: Will the member give way?

Willie Rennie: Yes, certainly.

Martin Whitfield: This is, of course, a public hearing in which the contributions are noted and, in due course, could be reflected in decisions that are taken. It is useful for people to be able to articulate their position—exactly as the minister has done—and for it be shown where there is disagreement and whether that ground can be bridged before stage 3, which is the last step in a bill before it potentially becomes legislation. Does Willie Rennie agree that it is right that we are able to articulate the reasoning behind our amendments? That may reduce some of the discussion that needs to take place—hopefully, it will not show that discussion does not need to take place, but that there is a positive reason for it.

Willie Rennie: Yes. I will make a few more points. I will not support Roz McCall's amendments 12 and 14, which remove the reporter's discretion on information sharing in a way that could harm children who have been referred to a hearing.

I support Pam Duncan-Glancy's amendments 178, 175 and 180, which are about providing information to support safety planning, and sharing other information that might be relevant and proportionate with those who have been impacted by harmful behaviour. That broader set of amendments would assist with information sharing.

I turn to my amendment 123, which creates a reporting requirement to support an informed and constructive debate about how the wider redesign of the children's hearings system can ensure that all children have their rights fully respected and that no children are left behind. With the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 soon to be in force, there is more reason than ever to take steps to ensure that children's human rights are reflected in legislation that the Parliament passes. As well as ensuring the availability of child-suitable justice up to the age of 18, there is clear need for better support and connections to recovery and protection for children who have been harmed. To me, article 19 of the UNCRC, on protection from abuse, and article 39 of the UNCRC, on access to recovery, as well as support and safety planning, should be available regardless of whether decisions have been taken to process further action through the children's hearings system or the criminal justice system, or through no system at all.

Those two ambitions are not at odds with each other. It is possible to do better by children whose actions may harm others and by children who are harmed. Ensuring that that happens is critical to maintaining public support for the children's hearings system as a whole, which is a point that is clearly made in the "Hearings for Children" report. I am concerned that there is too little understanding of the experiences of children who are harmed when the matter is referred to the children's hearings system. With a more extensive redesign of the children's hearings system on the horizon, that needs to be addressed.

I am also concerned that, although once the bill is passed the debate might be over, we will have only begun on the process of reform. We need my amendment to create a reporting requirement to support a wider, constructive and comprehensive debate that considers all those who are involved with the system.

Ross Greer (West Scotland) (Green): I agree with Willie Rennie on the point of principle that we are not looking for mutually exclusive outcomes here. I am conscious that committee members

have received lobbying and briefings from a range of organisations in the field of children's rights, victims' rights and so on, some of which ask us to support Willie Rennie's amendments but, in the case of the Children and Young People's Commissioner Scotland, ask us to oppose amendments 122 and 123.

Does Willie Rennie agree that we are not a million miles off a position that is acceptable to the Government, other members on the committee and all key stakeholders, and that there is scope to reach agreement on reporting arrangements ahead of stage 3?

Willie Rennie: I think that the Government has certainly moved, including on the CSOs and on sharing information in a much more specific fashion, which is helpful. Amendment 17 is also helpful, although it is a bit vague and we could do with a bit more precision on exactly what the service will look like. That might not be appropriate for legislation, but there is a bit of scepticism as to whether that will be forthcoming.

I accept what Ross Greer says, but I do not understand why an empowering, more comprehensive system, in which you empower the reporter to make that risk assessment for all children, making sure that no children fall between the different stools, is not appropriate. It seems broader and more empowering than the specific and narrow provision that the minister wishes to put in place.

Michelle Thomson (Falkirk East) (SNP): One of the challenges here is to ensure that, in the bill itself, there is a delicate balancing of the rights of the victim and the rights of the accused. Having that as a necessity as part of a risk-based approach would go some way to doing that, although, as you concede, it might not be perfect. Am I correct that your point is that it should be intrinsic to the bill?

Willie Rennie: Yes, that is right. We do not want to alter the fundamental approach of the children's hearings system. We accept that it has been built up over many years. However, there is a feeling that, especially when we are moving a group that was previously in the criminal justice system into the under-18s children's hearings system, the existing rights will not be continued. Having it intrinsically built into the children's hearings system that a broad-based risk assessment is made, empowering the professionals who are making that judgment, is the best way to proceed. That approach is not unreasonable or restrictive and I think that it would address Michelle Thomson's point.

I support amendments 218 and 219, in the name of Martin Whitfield. Amendment 17 would also be appropriate.

I support amendment 173, in the name of Pam Duncan-Glancy, in relation to CSOs, which would consider the impact on a person who is affected by offending behaviour. That should allow a proportionate consideration of the full facts behind a referral, while still maintaining the needs, not deeds ethos.

I support amendments 4 and 5, in the name of Roz McCall, as including more places in the restriction conditions is sensible. However, amendment 6 is a promise to absolutely prevent contact, which could not realistically be met in all circumstances. We need to be straight with people about the limitations of what is possible.

Amendment 183 does something similar to amendment 182 in the previous group. I am conscious of what the minister said about having further discussions on the issue. I would like to make sure, whether through the bill or otherwise, that we have a system that includes more details so that we can analyse the effectiveness of movement restriction orders. However, I will not press amendment 183, considering the minister's reassurance on that front.

Roz McCall: I accept the Government's offer to speak to me, especially on amendments 4 and 5, so I will not press my amendments in the group. I hope that we can move forward with some change of wording and press the point at stage 3.

Amendment 2, by agreement, withdrawn.

Amendments 167 and 166 not moved.

Amendment 168 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 168 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Kerr, Liam (North East Scotland) (Con)
Rennie, Willie (North East Fife) (LD)
Webber, Sue (Lothian) (Con)

Against

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 168 disagreed to.

The Convener: The next group is on ways of working and training. Amendment 169, in the

name of Pam Duncan-Glancy, is grouped with amendments 187, 188, 210 and 211.

Pam Duncan-Glancy: My amendments in this group seek to ensure that we foster a system that is able to understand and support the unique needs and vulnerabilities of young people.

10:30

Amendments 210 and 187 require training for criminal justice agencies and the children's panel, respectively, on child development, children's rights and domestic abuse. Training that promotes a better understanding of child development will equip professionals to interact with children in a manner that recognises their age, their circumstances and their specific needs; indeed, it is, I believe, a cornerstone of providing appropriate and sensitive care. Training on the UNCRC ensures that professionals in the system are better positioned to uphold the principles of fairness, equality and respect throughout legal proceedings, equipping and empowering them to create an environment in which children's voices are heard and their rights prioritised.

In the context of domestic abuse, specialised training ensures that professionals can identify signs of trauma, address immediate safety concerns and adopt a child-centric approach that prioritises the wellbeing of the young person involved and seeks to avoid or minimise the risk of exposing them to the recurrence of past or further trauma. Amendment 169, in my name, dictates that children's hearings must carry out their functions in a way that accords with trauma-informed practice. The Scottish Government has recognised the importance of trauma-informed practice in improving the experiences of victims and witnesses, and the standards of service to which criminal justice agencies are held include, of course, a commitment to such practice. Many of the children who come into contact with the children's hearings system, regardless of the grounds on which they are referred, will have had adverse childhood experiences. Therefore, ensuring that the system carries out its functions in a way that accords with trauma-informed practice will, I believe, be beneficial to all those engaging with the system, including those who have been affected by a child's offending behaviour.

Beyond training, a multi-agency approach to supporting children involved in criminal proceedings is also vital to comprehensively addressing the diverse needs of children in the system. Such an approach allows for a holistic understanding of the child's circumstances, recognising that their wellbeing is linked to various areas of their life, and enables tailored interventions that go beyond legal proceedings by facilitating co-ordination and communication among different agencies. I believe that that will ultimately contribute to the child's development and rehabilitation of the child. Amendment 211 recommends that the Government promote such an approach, and I also support amendment 188, in the name of Martin Whitfield, which calls for reporting each year on the steps that it is taking in that respect.

I urge colleagues to support my amendments on the basis that I have set out and, in so doing, to recognise the value of a multi-agency approach as well as the importance of training to criminal justice agencies and panels. That cannot be overstated, particularly when it comes to child development. A well-trained workforce is fundamental to creating a justice system that is responsive, empathetic and capable of safeguarding the rights of the child and their wellbeing, the rights of victims, and legal protections in all processes.

I move amendment 169.

Martin Whitfield: I am, as always, conscious of the time and the contribution necessary to get these things over the line.

My amendments relate to the reporting duty by which the use of multi-agency approaches will be held to account. The fact is that no one solution will help any individual young person; what is required is the coming together of different areas of support. There is an obligation on the Scottish ministers to ensure that those different areas can come together, are recognised and can have a say in supporting our young people. Amendment 188 requires the steps that have been taken and approaches that have been pursued to be set out, to allow us to hold to account the Scottish Government or the Scottish ministers as those responsible for such approaches.

Natalie Don: I say at the outset that I appreciate the intentions behind the amendments that have been lodged by Mr Whitfield and Ms Duncan-Glancy.

On the training of panel members, which is addressed in amendment 187 and is clearly an important area, measures have already been put in place by the national convener to ensure necessary and proportionate training. However, it is not clear why the particular subjects in this amendment would need to be legislated for above others in this way.

As Children's Hearings Scotland is a listed public authority under section 15 of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, it is required not only to comply with the UNCRC but to report on action that it has taken, or which it intends to take, to ensure compliance and

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

Given that children's rights training for panel members is already offered and will form an integral part of the reporting requirement, that aspect appears to have already been covered appropriately by other legislation.

Establishing a good understanding of child development is part of panel members' existing training and can be a key consideration in how a child effectively participates in their hearing. However, the Children's Hearings Scotland guidance that is issued to panel members states that

"Panel Members are not, and should not attempt to be seen as, child development specialists."

Similarly, all panel members receive training on domestic abuse as part of their wider training on trauma. Panel members must know how to approach cases in which domestic abuse is one of the grounds of the referral but also those in which domestic abuse is intertwined with other issues that need to be addressed by a hearing. However, domestic abuse is one of many child welfare concerns that might come before a panel and will not be a relevant consideration in all cases.

Therefore, I am not clear why domestic abuse and child development would need to be specifically elevated in status under schedule 2 to the 2011 act. I am comfortable that they form a proportionate part of the comprehensive training that is already offered to panel members and that children's rights training is appropriately covered by other legislative requirements. On that basis, I do not support amendment 187.

Pam Duncan-Glancy: I wish to clarify that the purpose of setting those matters out in this piece of legislation relates to the nature and purpose of the general bill. Domestic abuse is included in recognition of the evidence that the committee heard from various organisations, including Police Scotland, on the likelihood of more domestic abuse cases coming to the children's hearings system. On that basis, I do not see any reason not to include that training as compulsory under legislation. The training that is given to panel members is of a high standard, but not all of it is mandatory and there is nothing in legislation to set what that training should include. Given the changes that the bill proposes, I think that it is particularly important to set that requirement in legislation at this time.

Natalie Don: I thank the member for that intervention. However, as I said, I feel that that is covered by other areas and I am conscious of the issue of duplication. I absolutely agree that those are very important matters, but, as I said, panel members are already trained in those areas. I am about to come on to the matter of trauma training, so maybe it is something that we can look at as a whole. However, I do not agree that amendment 187 is necessary.

Similarly, on amendment 210, although I agree with the thrust of the member's intention that appropriate training should be in place in the context of children's criminal justice, the amendment is not necessarily clear about who the proposed training would apply to and what the training should entail. We do not have any evidence to suggest that the kind of training that is detailed in the amendment is not currently available, and the Scottish Government funds a range of agencies that provide training that can be accessed by staff who work with children and are involved in the youth and criminal justice systems.

Further, we do not consider it to be constitutionally appropriate for the Scottish ministers to arrange training for those who must act independently from the Government, such as the police, prosecutors and judges. It is important that we do not stray into inappropriate interference in investigatory, prosecutorial and judicial functions and that we respect the ability of criminal justice authorities to determine the most appropriate training for their staff in the exercise of their roles. Therefore, I cannot support amendment 210.

Although I appreciate the intention behind amendment 169, I do not believe that it is necessary. Children's hearings are, in many ways, ahead of the curve in trauma-informed practice, and all panel members receive mandatory trauma-informed training through a stand-alone training module that is provided by CHS. Trauma-informed practice also forms part of the pre-service training for panel members, so no panel member sits on a children's hearing without being trained in trauma-informed practice. Beyond panel members, children's reporters also receive training in trauma-informed practice to ensure that all the preparatory work is undertaken in a trauma-informed way.

As part of our response to the "Hearings for Children" report, we have committed to national oversight of the resourcing and provision of trauma training for everyone who works in the hearings system. That will be wider in scope than the conduct of children's hearings and will include the judiciary and local authorities.

We will work with key stakeholders to ensure that those aspirations are met and that existing resources are fully utilised. If that work establishes the need for legislative provisions to embed trauma-informed practice across the hearings system, that would be most appropriately taken forward as part of any legislation that flows from the redesign work.

Although amendment 169 appears not to be needed, because, as I said, what it sets out already happens in practice and we are working to go wider and further as part of our work to redesign the hearings system, if Ms Duncan-Glancy is willing to withdraw the amendment, I would be more than happy to work with her ahead of stage 3 to see whether something such as a handout amendment would be desirable.

On amendments 188 and 211, I recognise, understand and value the importance of providing all children and young people, including those who are referred to a children's hearing or are involved in criminal proceedings, with the right support, at the right time, from the right people. The Scottish Government has concerns that creating a legal duty on promoting a multi-agency approach to planning support, as well as the reporting requirements that would accompany that duty, would undermine the existing and embedded shared responsibility for implementing the GIRFEC—getting it right for every child—approach. It would also create duplication in existing statutory reporting requirements for local authorities and the Scottish ministers relating to children's services planning.

GIRFEC promotes an integrated and co-ordinated approach to multi-agency assessment and planning support for children and young people. It is locally embedded and positively embraced by organisations, services and practitioners across children's services planning partnerships, with a focus on changing culture, systems and practice to improve outcomes for babies, infants, children, young people and their families.

Existing statutory measures are in place to ensure that local authorities produce annual children's services plans under criteria that are outlined in part 3 of the Children and Young People (Scotland) Act 2014, which includes provisions on incorporating a multi-agency practice approach. The Scottish ministers also have a statutory requirement to publish a review of such plans every three years.

Pam Duncan-Glancy: The minister will be aware that those plans are of an aggregate nature; they cover all young people in a particular local authority on a more general basis. The amendments from Martin Whitfield and me would apply the multi-agency approach to the specific child who is being considered at the time. The plans that the minister mentioned do not apply to individual children; they are plans that organisations put in place that say that referral agencies will be available to them. Our amendments will make the plans much more specific to an individual child and will ensure that agencies dispose of their duties in a way that is relevant to that child, not on a wider basis.

Natalie Don: I thank the member for that intervention, but I have numerous other points to make on the amendments in the group.

Since 2011, in Scotland, we have promoted a multi-agency, whole-system partnership approach to preventing offending by children, which responds to the needs of children who are involved in, or are on the cusp of being involved in, conflict with the law. Creating an additional legal duty in the bill for the Scottish ministers to promote a multi-agency approach and, crucially, to produce a report that outlines what support has been provided would risk undermining the shared responsibility of implementing the GIRFEC multi-agency approach at all levels of the system.

As part of our response to the hearings system redesign report, we have committed to undertaking a national review of potentially multiple child protection, care and support processes and meetings, including review meetings. That will help to identify and then minimise unnecessary duplication for the benefit of children and families. Preparatory work for the review is already under way, and I look forward to progressing that work in early 2024, with input from the children's hearings redesign board and other key partners.

In summary, the Government does not support amendments 169, 187, 188, 210 and 211, and I urge members not to press or move them. If they do, I urge the committee to reject the amendments.

The Convener: I call Pam Duncan-Glancy to wind up and to press or withdraw amendment 169.

Pam Duncan-Glancy: Convener, before I do that, am I permitted to ask the minister a question about the commitment that she made to discuss amendment 169?

The Convener: Yes.

Pam Duncan-Glancy: That is much appreciated.

Minister, you indicated that you would be willing to discuss amendment 169 and look at what we could put in place. Can you give me a bit more information about the parameters in which that discussion would take place, so that I have an understanding of how far the Government is prepared to move on the issue?

Natalie Don: I probably will not be able to go into specifics on every amendment on which I give such a commitment today.

I have had extensive engagement with committee members between stages 1 and 2, and a lot of what they have raised with me has been

formulated into the Government amendments that we have lodged. I hope that that emphasises my willingness to work with members and my willingness to listen to them, because, as I have said before, my priority is to get this right for Scotland's children and young people. Although I cannot tell Pam Duncan-Glancy exactly what will be detailed in the discussions, I am willing to have them, and I am willing to have as many of them as needed until we get to a point at which it is workable.

10:45

Pam Duncan-Glancy: I thank the minister for her response, although I am not sure that it gives me much reassurance about amendment 169. I take the point that the minister is willing to discuss it.

On the basis that I am an optimist and that I am willing to consider what the minister has said on the record, which I hope will mean that we will get an amendment at stage 3 that looks at including trauma-informed practice, as amendment 169 suggests, I am prepared to hold my position on that.

Natalie Don: I mentioned that a handout amendment or something similar would be possible. Again, I cannot go into details on that today, because I need to see where we get to by the end of stage 2. However, my commitment to work with Pam Duncan-Glancy is on the record.

Pam Duncan-Glancy: Thank you, minister, I appreciate that, and I appreciate the context of a handout amendment. It was more the content of the handout that I was seeking to get further assurance on.

However, on that basis, I am prepared not to press amendment 169 when asked. I am still considering moving the other amendments in my name that are in this group. Is this the appropriate time—not to move them but to talk to them?

The Convener: I specifically asked you to wind up and press or withdraw amendment 169.

Pam Duncan-Glancy: You are quite right, convener—that is exactly what you did. Forgive me.

I will not press amendment 169 at this time, in the hope of making changes at stage 3, instead.

Amendment 169, by agreement, withdrawn.

Amendments 170 and 171 not moved.

The Convener: Amendment 119, in the name of Miles Briggs, has already been debated with amendment 165.

Miles Briggs: I have listened to what the minister has said. The Government is currently consulting on a learning disability, autism and neurodiversity bill, and I note that there has recently been a letter from many organisations to all ministers with regard to improvements. Although the minister did not mention that, I hope that the provision will be in a future bill, as it is something that needs to be taken forward. I will not move amendment 119.

Amendment 119 not moved.

Amendments 120 and 121 not moved.

The Convener: I suspend the meeting for 15 minutes for a short break.

10:48

Meeting suspended.

11:02

On resuming—

The Convener: The next group of amendments is on emergency placement in secure accommodation. Amendment 1, in the name of the minister, is the only amendment in the group.

Natalie Don: The Children's Hearings (Scotland) Act 2011 contains a range of existing child assessment and child protection measures to enable the placement and keeping of a child in a place of safety when that is necessary to protect the child from serious-harm risks. It has always been possible for a child to be taken or removed to, and kept in, secure accommodation, by virtue of those emergency measures. However, in practice, the use of secure accommodation for that purpose has been rare and, at times, the ability to do so has been contested between agencies. A small number of local authorities have raised that issue with the Scottish Government.

On further consideration, the Government considers that more explicit reference should be made to the secure accommodation criteria and appropriate procedural safeguards, should such measures be used to take, or remove to, and keep a child in secure accommodation. Therefore, first, amendment 1 promotes legal certainty about when such measures can be used for the purposes of taking a child to, and placing and keeping them in, secure accommodation.

Secondly, amendment 1 promotes consistency with the considerations that are needed for other routes to secure accommodation, such as a compulsory supervision order by a children's hearing containing a secure accommodation authorisation.

Thirdly, amendment 1 ensures that any placement is subject to appropriate legal safeguards to uphold the rights of the child where

a child is being deprived of their liberty by virtue of any placement in secure accommodation.

Proposed new section 57A of the 2011 act makes it clear that, in those situations, as well as a requirement for a child to meet the criteria for a particular child assessment or protection measure, the child can be taken to, placed in and kept in secure accommodation, but only subject to two important safeguards. First, that should happen only where the child meets the secure accommodation criteria that are set out in proposed new section 57A(4), which reflects the criteria for secure accommodation authorisations as amended by section 5 of the bill. Secondly, the relevant decision maker must, having considered the other options available, be satisfied that it is necessary for the child to be taken or removed to, or kept in, secure accommodation.

Proposed new section 57B in the 2011 act will enable further provision to be made in regulations, which will be subject to affirmative procedure, in respect of children who are placed in secure accommodation by virtue of the provisions. That could, for example, enable provision to be made to ensure that any placement in such accommodation would require the consent or agreement of the head of the unit of accommodation or, as the case may be, a chief social worker of the relevant local authority, as well as provision to protect the welfare of a child who is placed and kept in such accommodation. That will ensure consistency with regulation of other placements in secure accommodation.

I therefore ask members to support amendment 1.

I move amendment 1.

Martin Whitfield: I have a question for clarification. Has the minister considered a situation in which there might be disagreement between the provider and the senior social worker, and whether the senior social worker's decision would prevail in that case?

Natalie Don: Yes, absolutely. Obviously, that issue was picked up on, as I said, and we absolutely need to monitor the situation in the future.

Amendment 1 agreed to.

The Convener: The next group of amendments is titled "Prosecution of children: appropriate system". Amendment 3, in the name of Roz McCall, is grouped with amendments 18, 19, 189 and 190.

Roz McCall: My amendments in this group are on the prosecution of children in the appropriate system and would apply only to cases involving what are considered to be the most serious offences. I know that we have gone over this, but I will repeat it.

The offences that are covered are those that are required by law to be prosecuted on indictment, which are common law offences of murder, treason, rape and certain statutory offences, including possession of a firearm with intent to injure, causing death by dangerous driving, sexual assault by penetration, rape of a young child and sexual assault on a young child by penetration. The intent of my amendments is to ensure that such cases are prosecuted via the criminal courts and cannot be dealt with by the children's reporter.

It is important that the Mackie review is enacted in tandem with the bill. I note that the Government's response to the Mackie review was published just before Christmas recess. The changes to the children's hearings panel, funding for paid positions and training are all crucial to ensuring that the bill works for all young people. As the Government will not support the recommendation on paid positions and will continue to follow the existing volunteer model—unfortunately, the system is haemorrhaging volunteers—it is essential that cases involving 16 and 17-year-olds and the most serious offences proceed through the criminal courts.

Amendment 3 seeks to prevent the principal reporter from being able to investigate and refer cases to a children's hearing where a child who is aged 16 or over is accused of serious offences, as I have stated. Amendments 18 and 19 would require the Lord Advocate to consider the risk to the victim if a child is dealt with via the children's hearings system instead of being prosecuted.

Ruth Maguire (Cunninghame South) (SNP): It could be said that the amendments are completely at odds with the principle of the bill and with keeping the Promise. How would you respond to that?

Roz McCall: I am sorry—I will have to take my glasses off for this. The Promise—I am sorry, but I am trying to articulate my point.

Certain criminal offences have to be treated as severe. They are solemn court cases, and they should go through a process that recognises that solemn nature. It is therefore important that we have an option to do that, especially when it comes to serious crime.

We need to be mindful of not only the children who cause harm but the people who have had harm inflicted upon them. The amendments would ensure that, in the one or two cases in which it is required, there is the option to go through the criminal process, especially when it comes to severe criminal processes.

I have spoken to the three amendments and I will stop there.

I move amendment 3.

The Convener: I am not sure whether you want to respond further—

Roz McCall: No, thank you.

The Convener: That is fine. Liam Kerr will speak to amendment 189 and other amendments in the group.

Liam Kerr (North East Scotland) (Con): Thank you, convener, and good morning, all. With the committee's indulgence, I will be speaking on behalf of my colleague Russell Findlay, who has lodged several amendments. He has asked me to apologise for his non-attendance, which is because he sits on the Criminal Justice Committee and it is currently taking evidence from witnesses about other legislation.

Transparency is critical to the functioning of Scotland's justice system. In recent years, more cases of a criminal nature have been directed to the children's panel system, rather than being prosecuted in the criminal courts. That is likely to become more common. As we have heard, some of those cases already involve serious crimes of violence and sexual violence. In addition, the bill proposes that the age limit for children's panel referrals will increase from 16 to 18, which will also generate more panel cases, some of which will be criminal in nature.

On 29 March 2023, the Criminal Justice Committee took evidence on the legislation. Russell Findlay asked Kate Wallace of Victim Support Scotland about a lack of transparency for victims in relation to the panel system. She said:

"One of the biggest issues that comes to us for people in that situation is that they are really surprised by the lack of information. A lot of effort is put into explaining the process to them but they do not get any information about their own circumstances. Therefore, it is difficult for people not only to understand what is happening to the perpetrator but to safety plan for their own recovery. That becomes really challenging when you operate in a total information vacuum."—[*Official Report, Criminal Justice Committee*, 29 March 2023; c 15.]

Kate Wallace also said:

"Information-sharing provisions are needed so that people are clear about what information can and will be shared with people who have been harmed by a child or young person.

The types of information that will be shared need to be spelled out. If you go through an adult system, you have rights to information about updates to do with your case. For example, if someone escapes or absconds from a prison setting, you are entitled to that information. If you sign up to the victim notification scheme, you are also entitled to know when that person has been released. None of those provisions apply when a child or young person has harmed you. That aspect of the bill needs to be considered and provisions need to be put in place on it."—[*Official Report, Criminal Justice Committee*, 29 March 2023; c 14.]

Russell Findlay agrees with Victim Support Scotland, as do I. Amendment 189 would help to fill the information vacuum that is experienced by crime victims.

Amendment 190, in the name of Russell Findlay, also relates to transparency. For victims or bereaved relatives, the justice system can often be unfamiliar and, I dare say, traumatic. The Crown says that

"Providing reasons for ... decisions is essential to retain confidence and to deliver accountability and transparency to those whose lives have been affected".

In 2015, the victims' right to review scheme was introduced by the Crown Office, which

"gives victims the right to request a review of a decision by COPFS not to prosecute a criminal case or to discontinue criminal proceedings that have commenced."

Amendment 190 is necessary because it seeks to extend those same important rights to victims when the alleged perpetrator is not prosecuted but is, instead, sent to the children's panel.

Members might find some context useful here. A 2018 thematic review of the victims' right to review scheme was published by HM Inspectorate of Prosecution in Scotland. It found that, over a particular one-year period, the Crown received one review request for every 306 cases in which a decision had been taken not to prosecute or to discontinue proceedings. Interestingly, around 10 per cent of those applications were successful.

It seems likely that there might be similar rates of appeals for the smaller number of cases involving young people. That is why such situations need to be covered in the bill. Victims cannot rely on ministerial assurances about what will happen.

I will therefore move amendments 189 and 190 in Russell Findlay's name.

11:15

Ross Greer: Apologies—I probably should have intervened and posed this point to Roz McCall. I would be grateful if she could address it when summing up. The point applies to amendments 189 and 190 to some extent, too, but I am more interested in amendments 18 and 19.

The Scotland Act 1998 enshrines the prosecutorial independence of the Lord Advocate, which is an important principle, but amendments 18 and 19 seem to undermine or erode that—or at least narrow it. I would be keen for Roz McCall to expand a bit on that point. To me, that raises issues of competence in relation to the Scotland Act 1998 and the principle of the Lord Advocate's

independence, on which there has been a growing debate in the Parliament over the past couple of years.

Natalie Don: As we understand it, amendment 3 seeks to prohibit the principal reporter from referring a child aged 16 or over to a children's hearing when it is alleged that a child has committed an offence that can only be tried on indictment. Moreover, amendment 19 seeks to compel the Lord Advocate to instruct the prosecution of such a child in relation to such an offence, rather than referring the child to a children's hearing.

Amendment 18 seeks to compel the Lord Advocate to prosecute any child in respect of an alleged offence where there is a "high" risk of "physical or psychological harm" to the alleged victim of that offence if prosecution is not pursued, rather than referring the child to a children's hearing. It is not clear what level of risk is "high" in this context, or how prosecuting the child, rather than dealing with the child through the children's hearings system, would have an impact on that.

In any case, the risk of harm if the Lord Advocate chooses prosecution at that stage can be dealt with through consideration of whether the accused is granted bail or is remanded in custody, as was made clear recently in the Bail and Release from Custody (Scotland) Act 2023, which put public safety, including the safety of victims, at the heart of decisions on bail and remand.

Taken together, those amendments aim to restrict the ability of all children under 18 to have their cases dealt with by the children's hearings system where that is appropriate. That is a fundamental principle of the bill as endorsed by the Parliament at stage 1. It is interesting that the Conservatives are making their proposals only a week after the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 received royal assent, following cross-party support in the Parliament. I am surprised at their turnaround on children's rights. As such, amendment 18 goes against the general direction and principles of the bill.

Amendment 189 compels the Lord Advocate to

"inform any person who is or appears to be a victim"

when a child, instead of being prosecuted, is referred to the principal reporter under the decision-making process governing joint referral for offences. However, it is not clear how such a victim is to be determined, given that there has not been any determination of the case, whether by the children's hearing or a court. There is significant ambiguity in the drafting there.

Amendment 190 allows

"any person who is or appears"—

Liam Kerr: Will the minister take an intervention?

Natalie Don: Yes.

Liam Kerr: Do I take it from that that the minister is opposing amendment 189 on the ground that she feels it to be ambiguous, or is she minded to support it and simply seeks more clarity?

Natalie Don: I am opposing it—for clarity.

Liam Kerr: On the ground of its being ambiguous?

Natalie Don: Yes, and on other grounds, as I have just laid out for the member.

Amendment 190 allows

"any person who is or appears"—

Michelle Thomson: On a point of clarity for me, while I accept what the minister is saying about the ambiguity in the context of amendment 189 itself, has she done any further thinking on the principle of the victim's right to be kept informed, particularly for a very traumatic thing, as is done in other areas? Is she therefore suggesting that further consideration will be given to that principle in time for stage 3, or is the Government discounting the principle altogether?

Natalie Don: I am discounting amendment 189 altogether, given the way it is worded. I have already been very clear about victims' rights and information for victims. I have already gone through the Government's amendments in relation to more information for victims, and I intend to cover that at the end of my remarks.

If the convener is happy for me to continue, I will be happy to respond to any other questions at the end.

Amendment 190 would allow

"any person who is or appears to be a victim"

to seek a review when a child is referred to the principal reporter under the decision-making process governing joint referral.

As well as going against the grain of the bill, the amendments in this group fly in the face of existing law and practice. For example, amendment 3 provides that the principal reporter should refer the matter of alleged serious offending by a child to the Lord Advocate, but that is unnecessary. Current law and guidance mean that both will receive a report of the alleged offending behaviour from the police. The Lord Advocate will carefully consider the case for prosecuting the child in the light of that, taking into account all factors relevant to the public interest, including the rights of any potential victim.

Liam Kerr: So, on that point, the minister believes that it is not open to people to request a review, as would be the case in the other courts. Is that the principle on which her position is founded?

Natalie Don: I do not think that that is a decision for me, as a minister, to take. That is what I am trying to lay out here.

Liam Kerr: With respect, you oppose amendment 3, and I am asking you to articulate your precise reasons for opposing it.

Natalie Don: I have just done that—I have articulated my reasons for opposing the amendment. I do not see how I can be any clearer.

The Convener: The minister will proceed. If there are any further questions, we will take them at the end.

Natalie Don: Fundamentally, at the root of our position is the fact that the Conservatives' amendments in this group would interfere with the constitutional independence of the Lord Advocate in relation to prosecutorial decision making. Just as the Parliament cannot undermine that, I, as a minister, cannot undermine that.

Members will be aware that, following the committee's stage 1 report, in which a recommendation was made concerning the Lord Advocate's prosecution guidelines, the Lord Advocate wrote to the committee, stating:

> "It is a fundamental principle of Scots constitutional law that, as the independent head of the systems of criminal prosecution and investigation of deaths in Scotland, the Lord Advocate takes decisions independently of any other person."

That same principle is being breached by the amendments in this group. Should the committee be minded to agree to them, it would seem very likely that similar representation would be made, and action needed by the Parliament, at stage 3.

Liam Kerr: But that principle is not offended by amendments 189 and 190. To say that it is, is factually incorrect, is it not?

Natalie Don: I do not believe that it is incorrect. I think that we are agreeing to disagree here.

The Convener: You are at loggerheads. It does not appear that agreement will be reached, as you have different positions. Carry on, minister.

Natalie Don: Before I come to a close, I will address the issue that Mr Kerr raised in relation to Victim Support Scotland's position. I have already spoken about the changes that the Government has proposed in that regard, and I have offered to work with members on further changes. I do not think that compelling the Lord Advocate in the way that the Conservatives propose, or preventing 16 and 17-year-olds from being able to have their liberty deprived in a secure care setting rather than in a young offenders institution is the best way to proceed. As I have said, that goes against the general principles of the bill.

The Government cannot support amendments 3, 18, 19, 189 or 190. I urge Ms McCall not to press amendment 3, and I urge her and Mr Kerr not to move the other amendments in the group. If amendment 3 is pressed and the other amendments are moved, I urge the committee to reject them.

The Convener: I invite Roz McCall to wind up and to press or withdraw amendment 3.

Roz McCall: I want to respond to Ross Greer's comments. Amendments 18 and 19 seek only that reference cases be referred to the Lord Advocate; they do not seek to impact on her decisions in that regard.

I seek to withdraw amendment 3.

Amendment 3, by agreement, withdrawn.

Amendment 172 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 172 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Kerr, Liam (North East Scotland) (Con)
Rennie, Willie (North East Fife) (LD)
Webber, Sue (Lothian) (Con)

Against

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 172 disagreed to.

Section 2 agreed to.

Section 3—Compulsory supervision orders: prohibitions

Amendments 4 and 5 not moved.

Section 3 agreed to.

After section 3

Amendment 173 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 173 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Kerr, Liam (North East Scotland) (Con)
Rennie, Willie (North East Fife) (LD)
Webber, Sue (Lothian) (Con)

Against

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 173 disagreed to.

Amendment 6 not moved.

Section 4—Compulsory supervision orders: movement restriction conditions

The Convener: Amendment 7, in the name of the minister, is grouped with amendments 8 to 10 and 114.

Natalie Don: The use of language in proceedings concerning children has been highlighted as an area that is due for modernisation. That is why the Government has proposed the amendments in this group. They do not seek to change the fundamental nature of the tests to which they apply, but to more accurately reflect what considerations should be taken into account in respect of a child's welfare.

The new terminology of "health, safety and development" will be more readily understood by children and young people in the hearings system, rather than the previous language, which talks about "risk to moral welfare", which is outdated and harks back to a different time.

Amendment 7 seeks to update the language of risks to welfare, including moral welfare, to that of risks to a child's health, safety and development when referring to the test of whether a compulsory supervision order should include a movement restriction condition.

Amendment 8 proposes to make a similar change in respect of a compulsory supervision order containing a secure accommodation authorisation.

Amendment 9 does likewise in relation to medical examination orders by a children's hearing in respect of a child.

Amendment 10 will achieve a similar outcome with reference to the test for a warrant to secure attendance in respect of a child.

Finally, for consistency, amendment 114 amends other provisions of the Children's Hearings (Scotland) Act 2011, concerning whether or not a child should be excused from attending a children's hearing or a court hearing to consider grounds of referral.

I move amendment 7.

Amendment 7 agreed to.

Amendment 174 not moved.

11:30

The Convener: The question is that section 4, as amended, be agreed to. Are we agreed?

Liam Kerr: Forgive me, convener. Do you not need to ask the committee whether it accepts the withdrawal of amendment 174?

The Convener: Not in this case. That applies only if it is the first amendment in the group.

Section 4, as amended, agreed to.

Section 5—Compulsory supervision orders: secure accommodation authorisations

Amendment 8 moved—[Natalie Don]—and agreed to.

Amendment 176 not moved.

Amendments 9 and 10 moved—[Natalie Don]—and agreed to.

Section 5, as amended, agreed to.

After section 5

Amendment 177 not moved.

The Convener: Group 8 is on young offenders institutions for over-16s. Amendment 11, in the name of Roz McCall, is grouped with amendments 92 to 94, 96, 98, 100, 102, 106 and 107.

Roz McCall: I understand the trepidation about the amendments, but it is important to pinpoint my position. They are probing amendments and I will not move them all, but I reserve the right to bring them back at stage 3, because there are some important points that the bill may not necessarily have taken into consideration. I hope that my narrative will help to explain the reason for the amendments.

Sixteen and 17-year-olds who are considered to have committed the most serious of offences—I have already stated what those are—will be placed in a position in which a CSO is applied, with a residential placement or movement restriction conditions. A CSO being applied in a residential care facility would mean that there is the potential for care-experienced young people who have caused harm to be located beside care-

experienced young people who are being protected from harm. Understanding the effects of trauma in that case means that the care-experienced young person who is there to be protected from harm could experience instant anxiety, fear and perceived danger. No amount of separation in one facility will mitigate that; retraumatisation is inevitable. It is essential that there is adequate Government funding to ensure that there are sufficient residential facilities so that the scenario that I have laid out is not an option.

I have lodged my amendments because I am concerned that the balance is not there. As I have already stated, I will not press amendment 11 or move the others in the group, but I need reassurances from the Government that we will not have a situation in which young people, whom we have been charged to take care of because they are unsafe in their home environment, are placed with people whom we are charged to take care of because they have caused harm. I will not press or move my amendments, but I am interested in the Scottish Government's response to my points.

I move amendment 11.

The Convener: I am checking whether any other members wish to speak, before I ask the minister—who is frantically scribbling.

Natalie Don: Thank you, convener. Prisons are not places for children, and we are committed to keeping them out of prison through provisions in the bill that end the placement of under-18s in young offenders institutions. The amendments in this group run contrary to that by retaining the use of young offenders institutions for children aged 16 and 17, and, indeed, extend that position to all those aged 16 to 18. They would also go against our commitment to keep the Promise, which stated:

> "Scotland must recognise that 16 and 17 year olds are children in line with the UNCRC and must be accommodated within Secure Care rather than within Young Offenders Institutes and the prison estate. This must include children who are on remand and those who have been sentenced."

It also stated that

> "Young Offenders Institutions are not appropriate places for children and only serve to perpetuate the pain that many of them have experienced",

and the incorporation of the UNCRC reinforces that position.

I appreciate that Ms McCall will not press or move her amendments. It would have been more productive for her to come to me with her concerns about the provision of secure care and those other areas, so that we could have discussed them ahead of stage 2. However, I am willing to have those discussions as we move forward.

There has been cross-party support in the Parliament for keeping the Promise and the incorporation of the UNCRC. Support for a progressive approach to children's rights was evidenced by many of the consultation responses on the bill and during stage 1 evidence. That was echoed in the committee's stage 1 report, which supported ending the use of YOIs for under-18s.

There is a view, shared by stakeholders including HM Chief Inspector of Prisons for Scotland, the Children and Young People's Centre for Justice and the office of the Children and Young People's Commissioner for Scotland, regarding the need for urgency in bringing about the legislative changes necessary to end the imprisonment of children in Scotland.

On the detail of the amendments, amendment 11 would add to the powers of a children's hearing on reviewing an order under section 138 of the Children's Hearings (Scotland) Act 2011 to enable certain children to be moved from secure accommodation to a YOI. The amendment conflates aspects of the children's hearings system and the criminal justice system by providing that some children could be referred by a children's hearing for detention in a YOI.

As we have already discussed, the children's hearings system is a welfare-based tribunal rather than a court, and a children's hearing cannot determine that a child should be placed in a YOI. That can be a decision only for a court. In addition, a child referred to a hearing on offence grounds and placed in secure accommodation might be placed there without offence grounds having been established at court.

Amendment 11 also includes that, where a children's hearing considers that it would be appropriate for the child to be transferred from secure accommodation to a YOI, it must refer the matter to the Scottish ministers. The Scottish ministers have powers to direct the place and conditions only for children who have been convicted on indictment in a court of law and where they have been sentenced to detention by the court. The Scottish ministers do not have authority to direct the placement of any other child.

Amendment 93 would provide that, where a child aged over 16 years has been charged with or convicted of an offence on indictment, the courts would be compelled to commit them to a YOI. That removes the option that a 16 to 18-year-old who has been charged with or convicted of an offence on indictment and remanded could be detained in secure accommodation, should the court require a suitable place of safety chosen by the local

authority, and would provide that they can be detained only in a YOI.

Amendments 94, 96 and 102 would extend existing regulation-making powers to provide the circumstances in which children can be transferred to YOIs at the age of 16. That would include children who are convicted and sentenced to detention under summary procedure, but it is not possible for a child to be sentenced to detention in a YOI in summary proceedings.

Amendments 98 and 100 would make provision compelling the Scottish ministers to direct that a sentenced child is detained in a YOI. As I have said, the Scottish ministers currently have the power to direct the place and conditions of detention of children under the age of 16, those between 16 and 18 who are subject to a compulsory supervision order, where convicted on indictment and sentenced to detention, and under-18s who are convicted of murder. Where practicable and appropriate, that will be in secure accommodation. However, the option of secure accommodation would be removed by the amendments, meaning that, as I have outlined, the amendments are regressive from the situation at present and would remove the option of secure accommodation for some children.

The amendments would undoubtedly be a backward step, turning on its head years of progress in Scotland's approach to youth justice. As I said, I am glad that Ms McCall is not pressing or moving her amendments. On her other concerns, I would be happy to have a discussion with her ahead of stage 3. I ask Ms McCall not to press or move her amendments. If they are pressed and moved, I strongly urge the committee not to reject them—I mean to reject them.

The Convener: A double negative there. We had better watch that we do not trip up.

Roz McCall: As I have stated, I will not press amendment 11 or move the other amendments. It will be unacceptable in solemn cases that we move towards a movement restriction condition. It is relevant that we ensure, through the process of the bill, that we have adequate residential care. However, I will not press amendment 11.

Amendment 11, by agreement, withdrawn.

Section 6—Provision of information to person affected by child's offence or behaviour

Amendment 12 not moved.

Amendment 13 moved—[Natalie Don].

The Convener: The question is, that amendment 13 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Greer, Ross (West Scotland) (Green)
Kerr, Liam (North East Scotland) (Con)
Kidd, Bill (Glasgow Anniesland) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Rennie, Willie (North East Fife) (LD)
Thomson, Michelle (Falkirk East) (SNP)
Webber, Sue (Lothian) (Con)

Abstentions

Duncan-Glancy, Pam (Glasgow) (Lab)

The Convener: The result of the division is: For 9, Against 0, Abstentions 1.

Amendment 13 agreed to.

Amendment 178 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 178 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Kerr, Liam (North East Scotland) (Con)
Rennie, Willie (North East Fife) (LD)
Webber, Sue (Lothian) (Con)

Against

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 178 disagreed to.

Amendment 14 not moved.

Amendment 15 moved—[Natalie Don].

The Convener: The question is, that amendment 15 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Greer, Ross (West Scotland) (Green)
Kerr, Liam (North East Scotland) (Con)
Kidd, Bill (Glasgow Anniesland) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Rennie, Willie (North East Fife) (LD)
Thomson, Michelle (Falkirk East (SNP)
Webber, Sue (Lothian) (Con)

Abstentions

Duncan-Glancy, Pam (Glasgow) (Lab)

The Convener: The result of the division is: For 9, Against 0, Abstentions 1.

Amendment 15 agreed to.

Section 6, as amended, agreed to.

11:45

After section 6

Amendment 175 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 175 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Kerr, Liam (North East Scotland) (Con)
Rennie, Willie (North East Fife) (LD)
Webber, Sue (Lothian) (Con)

Against

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Thomson, Michelle (Falkirk East (SNP)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 175 disagreed to.

Amendment 180 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 180 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Kerr, Liam (North East Scotland) (Con)
Rennie, Willie (North East Fife) (LD)
Webber, Sue (Lothian) (Con)

Against

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Thomson, Michelle (Falkirk East (SNP)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 180 disagreed to.

Amendment 17 moved—[Natalie Don].

The Convener: The question is, that amendment 17 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Greer, Ross (West Scotland) (Green)
Kerr, Liam (North East Scotland) (Con)
Kidd, Bill (Glasgow Anniesland) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Rennie, Willie (North East Fife) (LD)
Thomson, Michelle (Falkirk East (SNP)
Webber, Sue (Lothian) (Con)

Abstentions

Duncan-Glancy, Pam (Glasgow) (Lab)

The Convener: The result of the division is: For 9, Against 0, Abstentions 1.

Amendment 17 agreed to.

Amendment 122 moved—[Willie Rennie].

The Convener: The question is, that amendment 122 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Kerr, Liam (North East Scotland) (Con)
Maguire, Ruth (Cunninghame South) (SNP)
Rennie, Willie (North East Fife) (LD)
Thomson, Michelle (Falkirk East (SNP)
Webber, Sue (Lothian) (Con)

Against

Kidd, Bill (Glasgow Anniesland) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)

Abstentions

Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)

The Convener: The result of the division is: For 6, Against 2, Abstentions 2.

Amendment 122 agreed to.

Amendments 181, 182, 123 and 183 not moved.

The Convener: The next group of amendments is on "Attendance at children's hearing". Amendment 179, in the name of Russell Findlay, is the only amendment in the group. I call Liam Kerr to speak to and move the amendment.

Liam Kerr: Amendment 179 is another of Russell Findlay's amendments that I will speak to, as he is unable to be with us today.

This amendment relates to the principle of transparency with regard to open justice. As I explained earlier on amendment 189, victims groups have raised serious concerns about an information vacuum in relation to the panel system. As was set out earlier, more criminal cases will be dealt with by the panel, and that

number will increase as a result of the rise in the age.

Scotland's courts are public buildings. They are open to the public, with proceedings conducted, by and large, in public—that is the default position, albeit that there are important safeguards in place. Judges are, of course, able to conduct proceedings in private and to issue other orders where relevant in relation to victims and witnesses, but the principle remains that transparency is fundamental to open justice, and that must be cherished. Amendment 179 simply seeks to extend that transparency to the panel system, which is increasingly dealing with cases—often serious—of a criminal nature. Crucially, the amendment caveats that by ensuring that the chair will still be able to refuse attendance when that is in the best interests of the child.

I move amendment 179.

Natalie Don: A key function of the children's hearings system is ensuring effective participation from those in the room. That means that the hearing has to be very carefully managed, as reflected in the current rules under sections 76 to 78 of the Children's Hearings (Scotland) Act 2011.

The chairing member has a duty to minimise the number of people in the room at any one time to create a more child-friendly setting that is conducive to the business of the hearing. Amendment 179 would severely obstruct the chairing member's ability to manage a hearing. Indeed, it has the potential to create extraordinarily challenging situations in the management and operation of hearings, and it would be extremely detrimental to the rights and wellbeing of children and their families.

Liam Kerr: How does the principle that the minister has just elaborated stack up against the caveat in section (2) of the amendment, which would allow the chair to make the appropriate decision in the best interests of the child?

Natalie Don: I would just say, in all honesty, that something unexpected could happen. I am talking about one example and one situation here—this will happen on a case-by-case basis, and every situation will be different. The chair might make that decision initially, but that does not mean that difficulties will not arise in the hearing that follows, based on that decision. Therefore, I do not think that it would be right to allow such decisions to be made.

Mr Kerr referred to open justice and the Scottish courts in his opening for the amendment. Yet again, I reiterate that the children's hearings system is not a mini-court system. It is based on the welfare of the child and the outcome that would best rehabilitate that child. I am sorry, but I do not agree with the premise that what Mr Kerr is looking for would be congruent with those aims.

Children's hearings must be conducted in accordance with article 8 of the ECHR, which requires respect for private and family life. That is why attendance should be restricted to those persons whose presence is necessary for the proper consideration of the case.

Furthermore, the UNCRC, which is supported by all parties, places obligations on children's hearings to uphold every child's right to privacy and says that

"No child shall be subjected to arbitrary or unlawful interference"

with their private and family life. Allowing any member of the public to attend a hearing, with no justification, would be a regression in children's rights and would potentially be incompatible with them.

Amendment 179 fails to consider the fundamental differences between the approach of the children's hearings system and the approach that is taken by the criminal justice system, as I have just outlined. Amendment 179 does not take account of the fact that the majority of hearings deal with highly sensitive care and protection cases, often for very young, vulnerable children. They are not simply juvenile courts dealing with young offenders.

On the basis that such an approach would disregard the child's wellbeing, rights and best interests, as reflected in the legislation as it currently stands, I cannot support amendment 179. I ask Mr Kerr not to press the amendment to a vote, but, if he does, I strongly urge the committee to reject it.

Liam Kerr: I have listened very carefully to what the minister has to say, and she says that she does not agree with the premise of the amendment, but the premise of open justice and transparency is core. Russell Findlay has also put in, very clearly—

Natalie Don: To correct the member, I did not say that I did not agree with the premise. I said that I did not agree with the premise in relation to the children's hearings system, which is not a mini-court.

Liam Kerr: We can both look at the *Official Report* afterwards to check what I noted down when the minister was speaking.

The caveat that Russell Findlay has put into amendment 179 is clear and unequivocal: it gives the chair appropriate jurisdiction over the hearings over which the chair presides. That utterly destroys the minister's argument that there is, in

some way, an erosion of rights. Therefore, I press amendment 179, in Russell Findlay's name.

The Convener: The question is, that amendment 179 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Kerr, Liam (North East Scotland) (Con)

Against

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Rennie, Willie (North East Fife) (LD)
Thomson, Michelle (Falkirk East (SNP)
Webber, Sue (Lothian) (Con)

The Convener: The result of the division is: For 1, Against 9, Abstentions 0.

Amendment 179 disagreed to.

The Convener: The next group of amendments is on "Reporting restrictions: offences and penalties". Amendment 16, in the name of the minister, is grouped with amendments 25, 43, 52 and 84.

Natalie Don: Sections 12 and 13 already make a range of provisions in respect of reporting restrictions in cases involving children, whether as victims, witnesses or suspects. Such cases often attract high levels of media and public interest, and the implications of breaching reporting restrictions for the children involved can be significant.

This group of Government amendments makes further provision for offences and penalties in response to breaches of reporting restrictions in relation to both the children's hearings system and the criminal justice system.

Amendment 16 increases the maximum penalties for a breach of a reporting restriction in relation to a children's hearings case. It increases the maximum penalty on summary conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both. On conviction on indictment, the maximum penalty is increased to imprisonment for a term not exceeding two years or a fine or both.

12:00

Amendment 16 is for consistency with the changes made by amendments 43 and 84, which cover breaches of reporting restrictions before court or during or after court proceedings respectively. Those amendments make the same increase to maximum penalties for breaches of reporting restrictions in the criminal justice system as amendment 16 does for the hearings system.

Breaching reporting restrictions is an offence. Therefore, increasing the maximum penalties for breaching such restrictions recognises the severity of that. It also reflects stakeholders' stage 1 evidence that the current level of penalty does not serve as a sufficient deterrent, given the potential gains from doing so, which can be significant.

Martin Whitfield: I am very supportive of the proposals that are set out here, but the minister will be aware that one of the challenges is how that information is disseminated, particularly by people who are close to a young person in the system. Given that the Children's Hearings (Scotland) Act 2011 makes reference to the Broadcasting Act 1990, which is obviously reserved, is the minister content that there is sufficient control and coverage of social media—say, TikTok or Facebook—so that that would amount to a broadcast that would allow a potential breach to be investigated and pursued?

Natalie Don: I will come on to some of the difficulties around this, but I agree with a lot of what the member says about social media. There are gaps across a range of issues to do with social media. The issue that the member raises might need to be monitored and looked at in the future, as would other difficulties with social media.

I will move on. Amendment 16 increases the maximum penalties for a breach of a reporting restriction in relation to a children's hearings case. It increases the maximum penalty on summary conviction to imprisonment for a term not exceeding 12 months—

Oh, I am sorry—I am repeating myself. I lost my place. Apologies for that.

Breaching reporting restrictions is an offence. Therefore, increasing the maximum penalties for breaching such restrictions recognises the severity of that and reflects stakeholders' stage 1 evidence.

Amendments 43 and 84 also provide appropriate statutory defences for breaches of reporting restrictions. That is to avoid unfairly criminalising individuals or publishers for the sharing of already published information when they had no reason to know or suspect that the original publication was done unlawfully or did not know that it included relevant information.

Again, those concerns were raised by stakeholders at stage 1. The amendments reflect the realities of social media and bring greater consistency with existing children's hearings legislation and provisions in other United Kingdom jurisdictions in respect of court proceedings.

However, as I have already stated, Mr Whitfield, I think that we need to continue to monitor that.

Amendments 43 and 84 also clarify individual culpability where an organisation commits an offence for breaches of reporting restrictions pre-court and during and after court proceedings respectively. The provisions provide a further disincentive to committing the offence of breaching reporting restrictions.

Amendment 43 also has the effect that the Crown cannot be found criminally liable for the offence created by section 106BB(1). However, through the mechanism in subsection (2), any unlawful conduct on the part of Crown bodies can be declared unlawful by the Court of Session. That is consistent with existing legal provision and usual practice.

The changes also seek to bring greater consistency and reflect the proposals in the Victims, Witnesses, and Justice Reform (Scotland) Bill that is progressing through Parliament, noting the committee's comments in the stage 1 report regarding alignment between provisions in the two bills as well as with penalties under contempt of court legislation. The changes are also important because the bill provisions will also apply to a broader range of potential publishers, including publishers that operate outside frameworks of professional regulation such as the editors' code or Ofcom regulations.

Amendments 25 and 52 are consequential amendments.

Liam Kerr: Does the minister have any concerns that the amendments could restrict press freedom?

Natalie Don: No. We have set out our intended aim with the amendments. I think that I have spoken to that perfectly well and have explained the premise behind them. If there was any danger of that being the case, I would not be taking forward the amendments in their current form. So, no, I do not have any such concerns.

I ask members to support amendment 16 and the other amendments in the group.

I move amendment 16.

The Convener: As no one wishes to comment, the question is, that amendment 16 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Rennie, Willie (North East Fife) (LD)
Thomson, Michelle (Falkirk East) (SNP)

Against

Kerr, Liam (North East Scotland) (Con)
Webber, Sue (Lothian) (Con)

The Convener: The result of the division is: For 8, Against 2, Abstentions 0.

Amendment 16 agreed to.

Section 7 agreed to.

After section 7

Amendment 184 not moved.

The Convener: The next group of amendments is on legal aid. Amendment 185, in the name of Pam Duncan-Glancy, is grouped with amendment 186.

Pam Duncan-Glancy: My amendments in this group support the principle that anyone who is subject to proceedings on either welfare or offence grounds should have access to legal representation on the basis that the outcome of such proceedings may have a significant impact on their life.

Legal aid plays a pivotal role in addressing the inherent inequalities that can arise during legal proceedings. Children who are entangled in the children's hearings system may come from diverse socioeconomic backgrounds or from difficult family circumstances. Legal aid can level the playing field, ensuring that every child has the means to present their case effectively and comprehensively, and that they fully understand the process in which they are involved. That inclusivity is aligned with the principles of justice and fairness that underpin the legal system.

Many, including the Children and Young People's Commissioner Scotland, have consistently called for extension of legal aid to children in all circumstances. The UN Committee on the Rights of the Child has made a number of recommendations to that effect, most recently in its 2023 concluding observations.

We know that organisations that support children's rights have come across situations in which a young person has not understood that accepting a referral to a children's hearing on the ground in section 67(2)(j) of the Children's Hearings (Scotland) Act 2011 can result in their effectively having a conviction on their PVG certificate.

The emotional and psychological toll of navigating the legal system can be overwhelming for all young people moving through it, and the committee's report recognised that. My amendment 186 would give all children who are

undergoing proceedings a statutory right to access legal aid, regardless of the grounds on which they have been referred to a children's hearing. The protection of that right in legislation would provide a fundamental safeguard for children's rights and is essential for creating a system that is fair and just, ensures that children are not left unsupported and is compliant with the UNCRC.

I urge members to support my amendments.

I move amendment 185.

Natalie Don: As we have heard, amendment 186 would make children's legal aid automatically available to every child who is subject to a children's hearing that is fixed by the children's reporter, including all deferred hearings, irrespective of the grounds of referral. I can see that the intention behind it is to ensure that there is legal representation when it is needed and appropriate. However, that is already in place. Amendment 186 risks bringing an overly adversarial approach into the system when we have a successful national advocacy scheme, and advocates can also draw on legal advice where that is needed.

According to the Scottish Children's Reporter Administration's annual report, 22,341 children's hearings took place in the year 2022-23. The operational effect of the amendment would be to require the SCRA to notify the Scottish Legal Aid Board of every hearing. SLAB would then, in turn, have to arrange for a duty solicitor to be made available to every subject child, assuming that the subject child did not already have a solicitor of choice. To establish whether every subject child already had a solicitor for every hearing taking place under the Children's Hearings (Scotland) Act 2011 would be a logistical impossibility given the number of hearings, and it is simply unnecessary.

Liam Kerr: Will the member take an intervention?

Natalie Don: I would be grateful if I could continue with my speaking note, because there is a lot of technical information in here. I am happy to answer any questions at the end.

Automatic provision of legal aid has been targeted to circumstances where hearings are convened in certain circumstances or proceed before a sheriff. Otherwise, a type of legal aid known as assistance by way of representation—ABWOR—is available for every child subject to a children's hearing, subject to an application to SLAB that addresses a means and merits test.

As a child is unlikely to have any financial resources, the means test is nearly always met. Likewise, the merits test, which is one of "effective participation", is also nearly always met. SLAB reports a high grant rate for ABWOR applications on behalf of children, at 99 per cent over the past 12 months. A child's social worker or advocacy worker can assist the child with securing contact with a solicitor to make an application for ABWOR, and every child who is subject has a right to advocacy support.

It should be borne in mind that children's hearings adopt a welfarist approach that aims to be non-adversarial in nature. Although a children's panel takes legally binding decisions, it is not an appropriate forum for detailed legal argument and instead is centred around the needs of the child who has been referred to the hearing. It is therefore not expected or desirable that publicly funded legal representation be automatically available in every hearing, and nor would it necessarily be required.

Amendment 185 also seeks to extend the availability of automatic children's legal aid to any occasion when a referral ground includes an offence allegedly being committed. Although I accept that it is narrower in scope than amendment 186, I am again concerned about the need for such a blanket provision when there is adequate scope under the current rules for children to have access to legal aid when required.

As I mentioned, ABWOR is already available for all hearings to the subject child, by way of application to SLAB, with a very high grant rate. Moreover, paragraph 28C(1)(d) of the Legal Aid (Scotland) Act 1986 already allows for automatic children's legal aid to be provided for children's hearings to which subsection 69(3) of the 2011 act applies. That is where a hearing is arranged by the children's reporter in relation to a child who is being kept in a place of safety having allegedly committed a criminal offence.

The amendment would also result in automatic children's legal aid for any hearing in which there was a minor offence as a ground of referral—there may be a number of grounds. It is understood that, last year, 2,637 children were referred to the reporter on offence grounds, although not all of those referrals will have resulted in hearings.

Operationally, the amendment would also result in a significant number of duty appointments being required to be put in place by SLAB, along with a knock-on effect for the solicitors currently on the duty list.

Pam Duncan-Glancy: Will the member take an intervention?

Natalie Don: I am just closing. I will be happy to take one after that.

The "Hearings for Children" redesign report recommended further exploration of the mechanisms for children to access legal aid. That work will be undertaken by the responsible

statutory bodies and overseen by the children's hearings redesign board during the course of 2024. It is anticipated that that will entail significant further work with social work, local authorities, SLAB and the wider legal profession's representatives, including the Law Society of Scotland.

I urge the member not to press amendments 185 and 186 and, if they are pressed, I urge the committee to reject them, given the reasons that I have outlined.

The Convener: Before Pam Duncan-Glancy comes in, other members may have questions. Mr Kerr, do you wish to ask the minister anything?

Liam Kerr: Very briefly. The minister said that establishing whether every subject child already had a solicitor for every hearing taking place under the 2011 act was a "logistical impossibility", but does she worry that she is putting logistics over ensuring representation?

Natalie Don: I do not agree with Mr Kerr, because, as I outlined, children already have the ability to access legal aid. The amendment would create unnecessary duplication of work for those organisations, so I do not think that it is required.

12:15

Ruth Maguire: Minister, you laid out in detail what is available, which was certainly helpful to hear. However, the committee heard about a potential issue with children accepting referral on offence grounds without understanding what repercussions that could have for later life. The example was given that, if a child was in trouble, they could accept a referral on offence grounds, as they would be given support and intervention. It can feel like the best thing to do, and often it will be. I am not making a judgment on that, but a potential issue has been identified.

Although the answer might not be in the blanket approach of offering legal aid, would you commit to having a further look at the problem that has been highlighted to the committee? It may be that something in the existing system could be tweaked that would make it better for children who are accepting offence grounds.

Natalie Don: I absolutely agree that, if there are issues, they need to be looked at. I would certainly be happy to look into that, especially given the further work that will be done in relation to the "Hearings for Children" report. I also agree with the member that the blanket approach is not necessarily the best way forward but, if there are children falling through those gaps, that needs to be looked at.

The Convener: I bring in Ross Greer.

Ross Greer: I was going to ask the same question as Ruth Maguire.

The Convener: Okay. Thank you, Mr Greer.

Pam Duncan-Glancy, can you wind up? If you have a question, perhaps the minister will respond.

Pam Duncan-Glancy: I am slightly confused because, in her reasons not to support amendments 185 and 186, the minister set out, on the one hand, a range of measures that are available and said that there is already support in place, and, on the other, said that the requirements in the amendments would be unwieldy. Either we are close to being able to put the support into legislation and give people a right to it or we are far from being able to do that. I think that those two positions somewhat contradict each other.

To speak to Ruth Maguire's point, it is important that we address the issues and the gaps that were highlighted to us. That is what amendment 185 seeks to do. It seeks to extend to the young person availability of legal aid—availability, incidentally; not necessarily delivery of legal aid or the making available of a lawyer in that space at that time—should it be required, particularly to address the gaps that my colleague Ruth Maguire highlighted and that I highlighted in my opening remarks around specific offences, such as those referred to in section 67 of the 2011 act. [*Interruption*.]

Yes, I will take an intervention.

The Convener: If you do not mind, I will let Pam Duncan-Glancy carry on.

Pam Duncan-Glancy: I am sorry, colleague.

On that basis, I think that there are gaps that need to be looked at.

The minister talked about "minor" offences. If something, no matter how minor, could lead to a conviction that could appear on someone's PVG, people should have access to legal aid at that point. That principle is really important. Would the minister be prepared to work with me, and possibly other members who have indicated an interest, on amendment 185 to see whether there is something that we can do specifically?

On amendment 186, a young person can sometimes be referred to a panel on welfare grounds, and, through the conversation that happens through that panel, it can appear that there has been some criminality. That is what amendment 186 seeks to address. I do not hear any indication that the minister is willing to consider extending the scope for referring to a children's hearing on welfare grounds, but I would appreciate it if she could say whether she would

work with me and others on at least amendment 185, which deals with offence grounds.

Natalie Don: I have been very clear that I would be happy to look into that further and work with members on it. Ms Duncan-Glancy raised a number of points. For the reasons that I have previously given, I do not think that her amendments would provide what the member is looking for. They would create a large duplication of work.

With regard to what you said about minor offences, if the offence is quite minor and there are a lot of grounds relating to welfare, for example, a solicitor could be seen as adversarial at that point.

We want to create a system in which the child is at the centre, and the child currently has the ability to access legal aid. As I said, however, I would be more than happy, although not at this point, to work with members on some of the gaps and the children who may be falling through the gaps in that regard.

Pam Duncan-Glancy: I thank the minister for that. On that basis, I may consider not pressing amendment 185. However, amendment 186 is still important to enable a discussion of extending legal rights in other areas, because of the reasons that I mentioned earlier, and I urge committee members to support that amendment when we come to vote on it.

The Convener: We will take each amendment in turn. Do you wish to press or seek to withdraw amendment 185?

Pam Duncan-Glancy: On the basis of the minister's commitment to work with us, I seek to withdraw amendment 185.

Amendment 185, by agreement, withdrawn.

Amendment 186 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 186 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Kerr, Liam (North East Scotland) (Con)
Rennie, Willie (North East Fife) (LD)
Webber, Sue (Lothian) (Con)

Against

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 186 disagreed to.

Amendment 187 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 187 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Kerr, Liam (North East Scotland) (Con)
Rennie, Willie (North East Fife) (LD)
Webber, Sue (Lothian) (Con)

Against

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 187 disagreed to.

Amendment 188 moved—[Martin Whitfield].

The Convener: The question is, that amendment 188 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Kerr, Liam (North East Scotland) (Con)
Rennie, Willie (North East Fife) (LD)
Webber, Sue (Lothian) (Con)

Against

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 188 disagreed to.

Sections 8 to 10 agreed to.

After section 10

Amendments 18 and 19 not moved.

The Convener: I call amendment 189, in the name of Russell Findlay, and ask Liam Kerr to say whether he wishes to move it.

Liam Kerr: Because the principle that the Government opposes is supported by Victim

Support Scotland, the legal basis provided by the minister is dubious at best and drafting ambiguities can be cleared at stage 3, I will move amendment 189.

Amendment 189 moved—[Liam Kerr].

The Convener: The question is, that amendment 189 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Duncan-Glancy, Pam (Glasgow) (Lab)
Kerr, Liam (North East Scotland) (Con)
Rennie, Willie (North East Fife) (LD)
Webber, Sue (Lothian) (Con)

Against

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)

Abstentions

Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 1.

Amendment 189 disagreed to.

Amendment 190 moved—[Liam Kerr].

The Convener: The question is, that amendment 190 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Kerr, Liam (North East Scotland) (Con)

Against

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Duncan-Glancy, Pam (Glasgow) (Lab)
Greer, Ross (West Scotland) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Rennie, Willie (North East Fife) (LD)

Abstentions

Thomson, Michelle (Falkirk East) (SNP)
Webber, Sue (Lothian) (Con)

The Convener: The result of the division is: For 1, Against 7, Abstentions 2.

Amendment 190 disagreed to.

Section 11 agreed to.

The Convener: I will suspend the meeting for five minutes to give everyone a brief comfort break, which a few people have requested.

12:28

Meeting suspended.

12:33

On resuming—

The Convener: During that short break, we had a look at what lies ahead of us in the various groupings and made the decision to suspend consideration of the bill at stage 2 for today. When we come back next week, we will start with section 12, on reporting restrictions and self-identification.

That therefore concludes our consideration of the bill at stage 2 for today. As I have just outlined, we will continue its consideration at our next meeting, on 31 January. I thank everyone for their time this morning.

Meeting closed at 12:34.

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