



OFFICIAL REPORT  
AITHISG OIFIGEIL

DRAFT

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# Scottish Parliament

Thursday 16 May 2024

[The Convener opened the meeting at 11:40]

## General Question Time

**The Deputy Presiding Officer (Annabelle Ewing):** Good morning. The first item of business is general questions. As ever, I would appreciate succinct questions and answers to match.

### Fair Work First Requirements

1. **Daniel Johnson (Edinburgh Southern) (Lab):** To ask the Scottish Government whether it will provide an update on how it is ensuring that those awarded public sector contracts and grants meet its fair work first requirements, including the payment of the real living wage. (S6O-03444)

**The Minister for Employment and Investment (Tom Arthur):** For public sector grants, as is stated in the fair work first guidance, monitoring compliance with fair work first principles, including the real living wage and effective voice conditions, is the responsibility of individual grant managers across Government and that of relevant funders across the wider public sector. That will be part of existing grant governance, assurance and monitoring processes, as with any other condition of grant, such as agreed outcomes.

For public sector contracts, as stated in the practical guidance, "Fair Work First in Procurement",

"the terms and conditions of the contract and the approach to contract and supplier management"

should be

"agreed with the winning bidder(s). This will help to ensure that any commitment to adopting the Fair Work First criteria ... offered by the winning bidder(s) are adopted and complied with for the duration of the contract."

**Daniel Johnson:** I thank the minister for that very detailed answer. I hope that he is aware that Police Scotland's facilities contractor is OCS. According to the GMB, OCS is failing to pay workers the real living wage, which is a key requirement of the fair work guidance. The Government has aspirations for Scotland to become a fair work nation by next year, but that is a clear example of a public sector contract failing to comply with that framework. Who is accountable for ensuring that fair work conditions are met, what is the remedy for non-compliance, and how will the Government ensure that every single contract across all organisations in the public sector is compliant with fair work principles and the fair work framework?

**Tom Arthur:** As I am sure Mr Johnson appreciates, given that the contractual relationship is between the Scottish Police Authority and OCS, it would not be appropriate for the Scottish Government to intervene directly and to comment on those matters. However, I can confirm that the Cabinet Secretary for Justice and Home Affairs discussed the issue with the chair of the Scottish Police Authority in November 2023 and received assurances that the SPA was content with the actions that Atalian Servest had taken to address any outstanding issues with its staff, and that the company was paying the living wage to its employees.

I appreciate that this is a matter of interest. I am new in post, and I will be keen to engage with Mr Johnson and other Opposition spokespeople on this issue.

### Grangemouth Refinery

2. **Richard Leonard (Central Scotland) (Lab):** I remind members of my voluntary register of trade union interests.

To ask the Scottish Government what recent discussions it has had with the owners of the Grangemouth refinery, its workers and trade unions regarding the future of the site. (S6O-03445)

**The Cabinet Secretary for Net Zero and Energy (Màiri McAllan):** The Scottish Government continues to engage extensively on those matters. I most recently met representatives of Petroineos yesterday, alongside ministers of the United Kingdom Government from the Department for Energy Security and Net Zero and the Scotland Office. During the meeting, I made clear the Scottish Government's continued commitment to engage constructively with the business and our desire for all parties to co-operate on a sustainable future.

I also had a chance yesterday, at the All-Energy conference, to meet representatives of Petroineos and RWE regarding the new green hydrogen plans that were announced yesterday. Ministers met representatives of Unite the union and the Scottish Trades Union Congress on the morning of the import terminal announcement last year, and we have subsequently met several times, including at a just transition round-table event that I held with unions on 29 February. Petroineos and the unions are members of the Grangemouth future industry board's leadership forum, which I most recently convened on 28 March. I also have a further meeting with Unite planned in the coming weeks.

**Richard Leonard:** The UK sustainable aviation fuel mandate is due to commence in 2025, and it will apply to jet fuel suppliers. The Grangemouth

refinery is a long-established and profitable supplier of aviation fuel. Grangemouth is an ideal location for a future fuels hub. Will the Scottish Government work with the current owners, including PetroChina, and with the trade unions, especially Unite? Will it use its agencies, such as Scottish Enterprise, the Scottish National Investment Bank and the just transition fund, to realise that vision, to extend the life of the refinery and to plan for and invest in a sustainable fuel future for the workers, for the industry and for the community?

**Màiri McAllan:** I agree with much of what Richard Leonard has said. I will repeat what I have said before: my preference is that refining operations continue for as long as possible. In the meantime, it is also my expectation that we work to maximise future opportunities at Grangemouth, which the Scottish Government is doing. I agree with Richard Leonard that the production of sustainable aviation fuel at Grangemouth is one possible future opportunity. However, the regulatory framework, including the hydroprocessed esters and fatty acids—HEFA—cap and the consideration thereof post-Brexit, lies with the UK Government. That is why I have been convening meetings, including the trilateral that I had yesterday, in order to take matters forward.

**Michelle Thomson (Falkirk East) (SNP):** I note the cabinet secretary's reference to the German firm RWE. Could the cabinet secretary briefly outline how that company's proposals for a hydrogen site in place of the Grangemouth refinery would help to fulfil at least part of the Scottish Government's just transition plan?

**Màiri McAllan:** Michelle Thomson is right that, as well as sustainable aviation fuel, as Richard Leonard has mentioned, we are exploring the opportunities for fuel switching and the production of hydrogen at Grangemouth. As I said, I welcome RWE's announcement with Petroineos that they are taking forward that project together. The issues are multifaceted and responsibilities lie with the companies, the regulatory framework under the UK Government and, of course, the Scottish Government, which also plays its part. I am determined to pursue all options through all the forums that I have mentioned.

**Stephen Kerr (Central Scotland) (Con):** At the beginning of March, the Grangemouth future industry board

"agreed to draft an actions plan outlining activities that the Board can deliver within the next 100 days."

Who is responsible for delivering the plan? When will it be published?

**Màiri McAllan:** I chaired my first meeting of the Grangemouth future industry board's leadership forum recently and those matters were discussed.

My officials and I are taking those issues forward. For the chamber's interest, the membership of the board is broad and includes the Scottish Government, the UK Government, local colleges, local authorities, the companies and others. We are working together on the production of documents. I am happy to update the chamber when I have the next date for the meeting.

### **NHS Greater Glasgow and Clyde (Meetings)**

**3. Paul O'Kane (West Scotland) (Lab):** To ask the Scottish Government when it last met with NHS Greater Glasgow and Clyde. (S6O-03446)

**The Cabinet Secretary for Health and Social Care (Neil Gray):** Ministers and Scottish Government officials regularly meet with representatives of all health boards, including NHS Greater Glasgow and Clyde to discuss matters of importance to local people.

**Paul O'Kane:** Earlier this month, NHS Greater Glasgow and Clyde NHS Board approved the permanent downgrading and reduction of the out-of-hours general practitioner service in Inverclyde, which is now the only area of the board that does not have a full service. That was despite widespread opposition to the closure in the public consultation and the unanimous opposition of Inverclyde Council. Although local Scottish National Party parliamentarians have tried to excuse the cut, reports to the board have made it clear that there has been a lack of investment in front-line services, including out-of-hours services. The director of finance for the board has said that it will have to review every line of spend in order to meet its savings targets.

Why did the Scottish Government call in the decision in the face of widespread opposition? Will the cabinet secretary be yet another SNP health secretary who comes to Inverclyde and tells people that services are safe with the Government and then presides over cuts, closures and second-tier provision?

**Neil Gray:** Of course, I recognise the strong feeling in the local area about the matter. Obviously, it is for the health board to make the decision, but I expect services to be provided safely, sustainably and as close as possible to where local people need them. Paul O'Kane is right that significant engagement took place across the board; there were approximately 40 activities across the region, including four public drop-in sessions in Inverclyde. The possibility of offering a seven-day service in Inverclyde was explored, but the health board was clear that, because of the small patient numbers from Monday to Friday, which averaged four patients in a 14-hour period, that could not be sustained. The board has also agreed to offer patient transport to all Inverclyde patients who need to receive care at

a primary care emergency centre outwith those times.

On the financial front, the Scottish Government has protected health spending as far as it possibly can in the face of a declining United Kingdom Government block grant. We have provided a record level of funding, including a 3 per cent real-terms increase to all national health service boards, although I recognise the challenges that exist in spite of that, due to increased pressure.

### Renfrew Bridge

**4. Bill Kidd (Glasgow Anniesland) (SNP):** To ask the Scottish Government what recent discussions it has had with Renfrewshire Council regarding the timetable for the joining up of the sections that will form the Renfrew bridge, which will cross the River Clyde to Yoker. (S6O-03447)

**The Minister for Employment and Investment (Tom Arthur):** Our role in the project is as a funder through the Glasgow city region deal. We have committed £500 million to the deal, of which £39 million is going towards the new bridge that will connect Renfrew with Clydebank and Yoker. The latest update, given on 17 April at the most recent meeting between officials and the regional programme office, was that construction is scheduled to be completed in August. As the project is led by Renfrewshire Council, further details are not held centrally, and the council will be the best place to pursue further information.

**Bill Kidd:** As the minister has said, the Glasgow city region deal, which is nearing its 10th anniversary, has been central to the project's success. How does the Government intend to build on that and other successful projects that are undertaken as part of the city deal through new initiatives such as the Clyde mission?

**Tom Arthur:** We are committed to working constructively and in partnership with local authorities, regional economic partners and wider civic Scotland to ensure that we provide support for building on the legacy of the city deal. The city deal is delivering significant benefits to Glasgow city specifically, and to the wider area with the partnership authorities. As Minister for Employment and Investment, that comes within my responsibilities; I am committed to engaging with partners, and I would be more than happy to meet Mr Kidd to discuss further opportunities to work collaboratively.

**Paul Sweeney (Glasgow) (Lab):** As we approach the 10th anniversary of the announcement of the Glasgow city region deal, it is good to see that the bridge is nearing completion. Will the minister confirm whether the bridge has been designed at least with the idea of

integrating with Clyde Metro in future, so that it can take light rail infrastructure?

**Tom Arthur:** I appreciate Mr Sweeney's supplementary question and his long-standing interest in these areas. I am not in a position to give him a specific and detailed answer to his question, but I am more than happy to write to him to provide further information and to meet him to discuss these matters further.

### Tourism (Inclusion and Accessibility)

**5. Roz McCall (Mid Scotland and Fife) (Con):** To ask the Scottish Government what action it can take to ensure that tourism is inclusive and accessible for all. (S6O-03448)

**The Minister for Employment and Investment (Tom Arthur):** Our vision for a fairer Scotland means that everyone should be able to benefit from our vibrant visitor economy. Scotland outlook 2030, our national tourism strategy, includes a commitment to ensuring that Scotland is an inclusive and accessible destination. Equality, diversity and inclusion are threaded through all the missions of our tourism and hospitality industry leadership group. Our national tourism organisation, VisitScotland, focuses on inclusive tourism as a key strand of its responsible tourism strategy. That includes publishing an inclusive tourism toolkit, with tips and support to help individual businesses ensure that they are inclusive and welcoming to all.

**Roz McCall:** Four out of five disabled people do not have a holiday of any kind, primarily due to the limited number of holiday venues that can accommodate their additional needs. When I recently visited the Rings site in Cupar, in my region, to see for myself its wonderful fully accessible accommodation that provides hospitality for all, I was surprised by how simple and unobtrusive many of the alterations were. Will the Scottish Government agree to look at various legislative obstacles, including planning, to ensure that hospitality and tourism in Scotland can be fully accessible?

**Tom Arthur:** Yes, I would be more than happy to commit to doing that, and I am grateful to the member for bringing that important issue to the chamber. I reiterate that we want to ensure that everyone in Scotland has an opportunity to enjoy our world-class visitor economy. In that spirit, I am more than happy to meet the member, and any other members, to discuss those matters further.

**Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** Will the minister visit Galashiels in the heart of my constituency to see the significant measures that have been put in place on public transport by bus and train, as well as the improvements that have

been made to pavements, to increase accessibility to tourist destinations, such as the great tapestry of Scotland, for people with mobility challenges? To my cost, I am learning about such challenges—temporarily, I hope.

**Tom Arthur:** Yes, I would be delighted to. I commend Christine Grahame for raising those matters, and for securing what I think must be her third or fourth ministerial visit from me since I was first appointed.

**The Deputy Presiding Officer:** Question 6 has been withdrawn.

### Glasgow Low-emission Zone (Taxis)

**7. Pauline McNeill (Glasgow) (Lab):** To ask the Scottish Government what discussions it has had with Glasgow City Council and representatives of the taxi trade, in light of reports of potentially significant job losses in the sector as a result of the implementation of the low-emission zone. (S6O-03450)

**The Cabinet Secretary for Transport (Fiona Hyslop):** Scottish Government officials have frequently met Glasgow City Council officials and representatives of the taxi trade to discuss the rates of taxi low-emission zone compliance. As Glasgow City Council is responsible for the administration and enforcement of its LEZ, it may grant local time-limited exemptions where appropriate. From June 2023, a 12-month extension was offered to Glasgow taxi operators with non-compliant vehicles. The council has recently announced a further extension, beyond June 2024, to the exemption for some taxis, where the operators can demonstrate a commitment to retrofitting their vehicles or purchasing compliant replacement vehicles.

**Pauline McNeill:** In answer to a question from Annie Wells last week, the cabinet secretary said:

“Unlike other major cities in Scotland, Glasgow City Council does not have an age limit on taxis, so there is a higher proportion of older... taxis”.—[*Official Report*, 9 May 2024; c 3.]

I would like to highlight to the cabinet secretary the fact that, at a recent meeting of taxi drivers in the city, older workers with older vehicles said that they were unable to finance a new vehicle and were ineligible for a grant from Glasgow City Council. Hundreds of older drivers are in that situation, but the city council has offered them no options, so they will be forced out of business—and we are talking about up to 300 licences here. Does the cabinet secretary agree that this is unfair to older drivers, who do not have another option? They are experienced drivers, and they will be a loss to the city. Indeed, not granting a further exemption might be considered as indirect discrimination against older drivers.

**Fiona Hyslop:** Pauline McNeill is correct to look at the different experiences in different cities. In Dundee, taxi compliance is already at 90 per cent; in Aberdeen, it is at 75 per cent; and, in Glasgow, where the LEZ has been running longer, it is down at 63 per cent.

As for the finances that are available, we have recently announced further retrofitting funding, which is available to those who want to apply for it. It is not necessary to purchase a new cab to meet the entry standards. Retrofitting costs after the grant are typically £2,500 to £4,000, and, alternatively, drivers can purchase a second-hand Euro 6 standard taxi up to eight years old, which can still meet LEZ standards.

Pauline McNeill has raised an important point, but I also suggest that someone facing retirement might want to sell their taxi on, and one that has been retrofitted will have more value than one that has not been. As well as highlighting the Government-supported retrofitting fund, I think that there is also an issue here for lenders to look at sensitively.

### Ardrossan Harbour (Redevelopment)

**8. Katy Clark (West Scotland) (Lab):** To ask the Scottish Government whether it will provide an update on the redevelopment of Ardrossan harbour. (S6O-03451)

**The Cabinet Secretary for Transport (Fiona Hyslop):** The essential business case and cost review work is now nearing completion and I expect to give a further update on the project before summer recess. The work has been vital in providing clarity on the scope, benefits and potential costs of the project and in updating the investment requirements from the main funding partners. A meeting of the Ardrossan harbour task force is planned for later this afternoon, and the business case review work is expected to be with ministers for consideration thereafter.

**Katy Clark:** CalMac Ferries has said that it is the failure of port owners, Peel Ports, to invest that has left the harbour in substandard condition, despite the owners receiving more than £15 million in harbour dues over the past decade. Given the long-standing issues, there have been repeated calls to bring the port into public ownership.

Does the cabinet secretary accept that the current situation is unacceptable? Will she confirm the Scottish Government’s commitment to Ardrossan and outline her strategy? Given that there has been no meeting of the task force since March 2023—I note that there is due to be one later today—will she come back to the chamber with a statement to outline the Government’s approach?



**Fiona Hyslop:** I have already said that I will provide an update before summer recess. That is the plan.

Our focus is on ensuring that a robust business case is developed; the case for Ardrossan is properly considered; and the cost and scope is well understood, so that investment decisions can be made. Regardless of ownership, it is important that both parties—CalMac and Peel Ports Group—address these operational issues so that they can resolve them quickly and ensure minimal impact and disruption to the services to island communities. Of course, any purchase will depend on an owner willing to sell.

## First Minister's Question Time

11:59

**The Presiding Officer (Alison Johnstone):** The next item of business is First Minister's question time.

### Out-of-hours Hospital Services (Skye)

1. **Douglas Ross (Highlands and Islands (Con):** On Saturday, a woman tragically died at a music festival on Skye. At the same festival, 27-year-old Eilidh Beaton nearly lost her life when no ambulances were available. Eilidh told *The Press and Journal*:

"I was coming in and out of consciousness. My airways were shutting down."

She said:

"I could not breathe"

and

"At one point I thought if I don't get oxygen I will not be here tomorrow."

When we spoke with Eilidh last night, she said:

"We were 200 yards from Portree Hospital. A local coastguard offered to carry me to the hospital but were told there was no point because it was closed—so I would just be left lying outside."

One life has been lost and another was very nearly lost. Does John Swinney accept that that should never have been allowed to happen?

**The First Minister (John Swinney):** I agree with Mr Ross that that should never have happened. I express my sincere condolences to the family of the individual who lost their life and I say to Eilidh directly that I am sorry for the terrifying experience that she had on Saturday night.

As Mr Ross will be aware, Portree community hospital is not currently operating as a 24/7 emergency facility. Some years ago, Sir Lewis Ritchie recommended that it should be, and it is a matter of deep concern to the Government that that has not happened. The health secretary spoke with the leadership of NHS Highland yesterday to make it clear that we want that to happen at the earliest possible opportunity.

I want to say something to the ambulance crews and other individuals who supported Eilidh. The Portree ambulance was away from Portree at the time, so ambulances came to Portree from Dunvegan and from Kyle, which, as Mr Ross will know, involves quite a travel time. The ambulances got there as quickly as possible. The individuals who supported Eilidh, including Royal National Lifeboat Institution volunteers and others, have the admiration and appreciation of the

Government for the steps that they took to support an individual in our society.

**Douglas Ross:** We all have admiration for those who stepped in to help, but it should never have got to that stage. John Swinney says that he has deep concern that the recommendations of the report by Sir Lewis Ritchie have not been implemented. It is far worse than that. The report is from more than a few years ago; it was published in May 2018—six years ago.

The report was an independent external review of out-of-hours health services in Skye, Lochalsh and the surrounding area. The very first recommendation of the review from May 2018 said:

“Out-of-hours urgent care access at Portree Hospital should be provided 24/7”.

It also said:

“there should be no closure of Portree Hospital in the out-of-hours period”.

The report went on to say:

“The Scottish Ambulance Service ... should increase its paramedical staff ... capacity and capability in”

the region.

When we spoke to her last night, Eilidh said:

“The report has been on the table for 6 years saying we need 24 hour urgent care. They keep making these promises but delivering no action, making the same excuses.”

Those are her words, First Minister. Why, in the past six years, have the recommendations of the independent report not been implemented?

**The First Minister:** I understand the genuine concern that Mr Ross is expressing to Parliament today, and I take that very seriously. Mr Ross is correct that the report came out in 2018, but I point out that there has been a three-year period since then in which 24-hour emergency care arrangements were provided at Portree community hospital; however, they were not able to be sustained because of workforce challenges in the locality. I accept that that is not good enough, which is why the health secretary has spoken to NHS Highland to insist that those arrangements should be put in place.

There is of course a challenge in relation to some workforce issues, because of staff availability and issues in connection with housing availability. I say to Mr Ross that ambulance cover is available in Dunvegan, Portree, Kyle and, of course, at Broadford hospital. However, I do not in any way want to say that that is good enough.

Sir Lewis Ritchie’s recommendations must be implemented, and the health secretary has made that point directly and clearly to NHS Highland. It

is a matter of fact that there was a three-year period in which those recommendations were in force, but they have not been able to be sustained because of workforce challenges.

**Douglas Ross:** I know that the First Minister is treating the issue sensitively, as I think we all are, but that is no comfort to Eilidh, who thought that her airway was closing. She thought that, if she did not get oxygen, she might not see the next day. She will take absolutely zero comfort from the fact that, in three of the past six years, there was 24/7 care, because when there was a major event in Skye, it was not available.

The First Minister says that the Government will implement the recommendations of the report. Why are we hearing that from him and the health secretary now, and not when the report was published six years ago?

Six years ago, the local MSP for the area, Kate Forbes, said that the situation was “utterly unacceptable” and that the out-of-hours closure was

“another step in the wrong direction”.

This week, the Deputy First Minister said:

“Enough is enough. It has been six years, and the timescales for delivering the recommendations keep shifting.”

That was the Deputy First Minister saying that, and she added:

“there must be accountability”.

We agree, but it is the Scottish National Party Government, in which she serves, that needs to be accountable. Kate Forbes was the Cabinet Secretary for Finance and the Economy for years, and she is now the Deputy First Minister, which is the second-most powerful position in the Government. Where was the will to act before now?

It is not more empty words that are needed—it is action. Why does it take tragic events, such as the ones that we witnessed in Skye on Saturday, for the Government to finally step up and deliver?

**The First Minister:** I am trying to be as helpful as I can on the question, but it is a matter of fact that Sir Lewis Ritchie’s recommendations were implemented for a three-year period, although they have not been sustained.

I accept that that is not good enough. That is what the Government is addressing. That is why, in the past 48 hours, the health secretary has met directly with the leadership of NHS Highland. He has also met Kate Forbes, who is the Deputy First Minister and MSP for Skye, Lochaber and Badenoch. All those conversations are taking place to ensure that Sir Lewis Ritchie’s

recommendations are implemented, and that they are implemented in short order.

I give Mr Ross the assurance that the health secretary and I, as First Minister, will make sure that the issue is progressed. It should not have taken tragedy to get to this point, but I assure Parliament that the issue has the attention of ministers to ensure that it is addressed promptly.

**Douglas Ross:** Skye's health services were once again shown to be deficient at the weekend. Just last Friday, my colleague Jamie Halcro Johnston met campaigners in Portree, before those events happened, because local people and visitors were worried about the situation. They are still worried, and they are right to be worried, because we are getting comforting words but no sign of action.

The action should have happened in 2018. It is as simple as that. We do not ask for independent external reviews and then say that their recommendations are implemented every now and then. The recommended changes were required in 2018, and they have been required for the entire six-year period since then—not just for three years.

The crisis across healthcare in rural Scotland is a concern to people up and down the country. As this incident has shown, there are black spots across Scotland where urgent treatment is often unavailable. There are sometimes no ambulances if people live in the wrong place. There is a postcode lottery for emergency care. This crisis is costing lives and putting people at risk. What action will John Swinney take today to ensure that everyone in Scotland, regardless of where they live, has the same access to the urgent healthcare that they need?

**The First Minister:** I reiterate to Mr Ross that the recommendations were implemented but were found to be unsustainable. They were implemented for a three-year period; I have accepted that that is not good enough and that the issue must be addressed, which is exactly what the health secretary is doing.

It is important that I put on record the emergency care that is available in Skye. There is an advanced nurse practitioner-led, non-emergency, appointments-based out-of-hours service in Portree hospital, which is available by appointment on Saturdays, Sundays and bank holidays from 8.30 in the morning to 7.30 pm.

There is an accident and emergency at Broadford hospital, which is 30 minutes south of Portree. In addition to that provision, the Scottish Ambulance Service has four double-crewed ambulances that cover Skye, which are based in Broadford, Portree, Dunvegan and Kyle.

There is, however, a necessity for Sir Lewis Ritchie's recommendations to be implemented. That is exactly what the health secretary has insisted will be undertaken with NHS Highland, and that is what will happen. We will update Parliament about the improvements that are delivered.

### National Health Service

2. **Anas Sarwar (Glasgow) (Lab):** After 17 years of this Scottish National Party Government, the crisis in our national health service is deepening. More than 820,000 Scots are on NHS waiting lists; people who are waiting in pain are using their savings or borrowing money from loved ones to pay for private treatment; people cannot get general practitioner appointments; and 169,000 patients have waited more than four hours for treatment in an accident and emergency department since the start of this year.

Now, because of the Government's financial mismanagement, the NHS and social care services face a black hole of up to £1.4 billion this year. That has led the finance director of NHS Greater Glasgow and Clyde—Scotland's biggest health board—to warn that spending on every service would need to be reviewed.

Our NHS faces the biggest crisis in its lifetime, but health boards are being asked to make cuts across the country because of decisions that John Swinney has made. Does the First Minister accept responsibility? What will he do to fix the mess that he has made?

**The First Minister (John Swinney):** It is very important that we have a substantial discussion about the public finances and the context in which we are operating. In Scotland, we are operating after 14 years of austerity that have put insufferable pressure on our public services. Within that, the national health service has been the best financially supported of any service in Scotland.

Anas Sarwar could have come here today to ask me about financial pressures on local government—he would have been right to do so, because there are financial pressures on local government—but he is raising with me financial pressures on the national health service, which is the public service that has been best funded by the Government.

I have set the context for Anas Sarwar's question, because he and his colleagues have to understand that Scotland is now paying an intolerable price for 14 years of Westminster austerity.

**Anas Sarwar:** John Swinney and I do not disagree on the fact that we need to get rid of a rotten Tory Government that has destroyed the

United Kingdom over the past 14 years—there is no disagreement on that. However, after 17 years in government, there is always somebody else to blame. How about taking some responsibility for the decisions that are made here, in Scotland?

The First Minister made no effort to address the scale of the crisis that our NHS is facing. Instead, he went to his get-out-of-jail-free card, which is to blame the UK Tory Government. His financial mismanagement and the £1.4 billion black hole that it has created will impact on the delivery of every service in every part of the country.

Let us look at the past few weeks' announcements: Inverclyde's out-of-hours GP service has been permanently closed, with patients now facing a 50-mile round trip to access overnight appointments; in the city of Glasgow alone, more than 150 jobs have been lost in health and social care services; in North Ayrshire, care homes have been reduced and charges for vulnerable people have increased; and, in Edinburgh, unions have warned that social care cuts will mean that, in their words,

"Thousands of hours of support will be cut; hospitals, care homes, prison cells and morgues will fill up as a consequence."

Stop passing the buck. Stop looking for somebody else to blame. John Swinney has been at the heart of the SNP Government for 17 years. Is that not a damning indictment of his record?

**The First Minister:** I will never evade responsibility for my actions as a minister; it is not in my character to do so. However, I will be straight with the Parliament and the public in Scotland.

If anyone wants to look at all the things that I have said on the parliamentary record over the past 17 years, they will find me being straight with people about the financial challenges that we face. I also happen to be a former finance minister who balanced the budget on 10 occasions over the past 17 years. That involved taking difficult decisions to protect our public services, and it resulted in the national health service being the best-funded service among our public services.

We have also had to take some pretty tough decisions, for which I take responsibility, such as increasing tax on higher earners. Mr Sarwar has deserted that territory. Mr Sarwar and Mr Marra no longer believe in that territory. They voted for it once, and they now condemn it.

How does Mr Sarwar believe that we can invest as much as we do in the health service today if we are not prepared to ask people to contribute more in taxation? That gives us £1.5 billion more in revenue at our disposal, because of decisions for which I am absolutely happy to take responsibility. As a consequence of that, we can fund the

national health service better than if we had relied simply on the financial settlement from the United Kingdom.

**Anas Sarwar:** It demonstrates the First Minister's economic incoherence that he supports higher taxes for nurses but lower taxes for oil and gas giants that are making record profits in the middle of a cost of living crisis.

Our NHS is weaker than ever. Staff are under unbearable pressure and patients are being asked to accept the unacceptable, all because of the decisions that this Government has made.

As Deputy First Minister, John Swinney cut hundreds of millions of pounds from health and social care budgets. He said that he does not want to "evade responsibility" for the decisions that he has made. Let me remind him of just one group of decisions that he made in one year alone.

He cut £70 million from social care while people were stuck in hospital, unable to get a care package. He cut £65 million from primary care services, making it difficult for people to get a GP appointment. He cut £38 million from mental health services, leaving people in crisis waiting for longer to get the help that they need. He raided integration joint board budgets for more than £300 million. Those are the same local services that face funding gaps just now.

I say to John Swinney: do not evade responsibility. Stand up, apologise for the decisions that you have made and recognise why people across Scotland are asking, "How can the man who made the mess now be the one to fix it?"

**The Presiding Officer:** Always speak through the chair, Mr Sarwar.

**The First Minister:** It is a bit rich for Anas Sarwar to come to the chamber and criticise me for decisions that I have taken, when he supports a party that wishes to relieve bankers of the obligation to pay into our tax system by lifting the cap on their bonuses. That is a ludicrous position.

This morning, I listened to the contribution from Keir Starmer in which he set out Labour's policy position. I did not hear Keir Starmer setting out an uplift in public expenditure as a consequence of 14 years of austerity.

**Anas Sarwar:** Yes, he did.

**The Presiding Officer:** Let us hear the First Minister.

**The First Minister:** Mr Sarwar has accepted my point that austerity has been a curse on our society. Despite that austerity, however, resource funding for the national health service has more than doubled since this Government came to office in 2007.

We have taken tough decisions to increase tax in order to invest more in the national health service. We have made the national health service the best financially supported service of all public services in Scotland, and we are absolutely committed to delivering for the national health service.

Anas Sarwar cannot come to the chamber and deny that we have been operating in a significantly constrained public expenditure context and that we have delivered the best settlement that we can for the national health service.

### **Cabinet (Meetings)**

**3. Alex Cole-Hamilton (Edinburgh Western) (LD):** I start by expressing my party's condolences to the family of Heather Aird, who died after becoming unwell at the Skye Live music festival last weekend. I thank those who attended her and Eilidh Beaton, who, as we have heard, also became unwell.

To ask the First Minister when the Cabinet will next meet. (S6F-03120)

**The First Minister (John Swinney):** First, I associate myself with the comments that Mr Cole-Hamilton has made about Heather Aird and Eilidh Beaton.

The Cabinet will next meet on Tuesday.

**Alex Cole-Hamilton:** The emergency care system collapsed on Skye last weekend. Eilidh Beaton's life-threatening anaphylactic shock happened virtually on the doorstep of Portree hospital. Five EpiPens were administered to keep her alive, while lifeboat volunteers hammered on the doors of the hospital, and her boyfriend literally threw rocks at its windows, all because the doors were locked. For six years, the Government has known about the Ritchie report, yet the doors were still locked.

Skye is not alone in the hollowing out of rural healthcare. Just ask the mums who have to drive 100 miles down the treacherous A9 in labour because their local maternity unit in Caithness is closed.

The day before the emergency on Skye, I was in the Highlands, and I called on the new First Minister directly—again—to get the Portree hospital open for emergency care. We keep asking—this is not news to him. Why has it taken six years and a near fatality for his Government to finally lift the phone to NHS Highland about emergency care on Skye?

**The First Minister:** I have gone through with Douglas Ross some of the issues and the provisions that are in place, but I will go through them again for Mr Cole-Hamilton.

The circumstances at the weekend were unacceptable, and the recommendations of Sir Lewis Ritchie should have been implemented consistently over the past six years. They were implemented for three of the past six years. That is not good enough—it certainly was not good enough at the weekend—so that issue has been addressed directly by the Cabinet Secretary for Health and Social Care in his dialogue with NHS Highland.

Mr Cole-Hamilton raises issues about maternity care in Caithness. As he will understand, we take direct clinical advice about the sustainability of clinical services. It would be inappropriate for the Government not to take seriously the clinical advice that we have about the sustainability and effectiveness of local services. That will always be a priority for the Government.

I want to make clear to the Parliament the importance that the Government attaches—hence the point that I have just made to Mr Sarwar—to the significance of the financial settlement that we give to the national health service and to ensuring that those resources are deployed effectively around the country so that we have effective public services and effective health services available. That is the direction of the Government's healthcare policy, and that is what we will do and implement on behalf of the people of Scotland.

### **Sextortion (Awareness)**

**4. Evelyn Tweed (Stirling) (SNP):** To ask the First Minister what steps the Scottish Government is taking to raise awareness of the issue of sextortion, in light of the recent issuing of an urgent warning by the National Crime Agency to education providers across the United Kingdom. (S6F-03117)

**The First Minister (John Swinney):** Keeping children and young people safe from sexual abuse and exploitation, including sextortion, is a priority for the Scottish Government.

We welcome the efforts of the National Crime Agency to raise awareness of that serious harm. We, too, are raising awareness of the risk of sextortion and have provided information to parents and carers on the Parent Club website, which is currently being promoted via social media. Police Scotland is also updating sextortion resources on its website to reflect the new National Crime Agency guidance.

We will continue to work closely with national and UK partners, including the Internet Watch Foundation, Police Scotland, the National Cyber Security Centre and the Cyber and Fraud Centre Scotland, to tackle cybercrime, including sextortion scams.

**Evelyn Tweed:** Murray Dowey from Dunblane tragically took his own life in December after falling victim to sextortion via Instagram. That young man, with his whole life ahead of him, was just 16 years old. Murray's loss is felt widely in the community, and many are asking how they can protect young people online. Will the First Minister outline the steps that the Scottish Government can take to ensure that social media sites take the safeguarding of young people seriously and, when things go wrong, co-operate fully with the authorities?

**The First Minister:** I thank Evelyn Tweed for raising that important case. I have watched with incredible admiration the courage of Ros and Mark Dowey in talking about their beloved son, Murray. As the parent of a teenager, I cannot comprehend the scale of loss and the unimaginable suffering that they are experiencing, but I commend their bravery in raising awareness of the threat of sextortion, which has had such a terrible impact on their family.

The Government will continue to prioritise working closely with national and United Kingdom partners to protect children and young people from sexual abuse and exploitation through our membership of Police Scotland's multi-agency group on preventing online child sexual abuse. In the coming weeks, ministers in the Government will meet the Ofcom board member for Scotland to discuss the implementation of the UK Government's important online safety legislation, on which we, as a Government, have been deeply engaged. We must all take the efforts that we can to raise awareness of this important issue, to ensure that families and young people are supported to deal with the threats that now exist in our society.

I commend the bravery of Ros and Mark Dowey. They have my deepest sympathy for the loss that they have experienced, and the commitment of my Government to do all that we can to protect young people from crimes such as sextortion and the incalculable suffering that those crimes can inflict on families in our country.

### **Clyde and Hebrides Ferry Service Contract (Tender Process)**

#### **5. Edward Mountain (Highlands and Islands)**

**(Con):** To ask the First Minister, in light of the Clyde and Hebrides ferry service contract expiring in September, when the Scottish Government will publish the tender process for the new contract. (S6F-03119)

**The First Minister (John Swinney):** The Scottish Government's priority is to ensure provision of a high-quality service to communities on the Clyde and Hebrides routes. As stated in Parliament on 16 November, the Cabinet has

agreed that, subject to the completion of a satisfactory due diligence exercise, the next generation of the Clyde and Hebrides ferry service provision could be awarded via a Teckal exemption to the incumbent, CalMac Ferries Ltd. If an award via a Teckal exemption is confirmed to be the procurement route for the next service provision, a tender process will not be required. Should the due diligence work have an unsatisfactory outcome, we would revert to a competitive tendering process. An update on the preferred procurement route will be provided before the summer recess.

**Edward Mountain:** Of course, that is in direct contravention of what islanders wanted and what they told the Net Zero, Energy and Transport Committee. I am surprised that the Cabinet Secretary for Transport, who was a member of the committee when it took that evidence, has not briefed the First Minister about that.

Would the First Minister consider the decision to give the contract to a company whose parent company made a £16 million profit from delivering poor services in 2022-23 to be against the wishes of the islanders?

**The First Minister:** I have previously heard Edward Mountain commending the contribution of my colleague Fiona Hyslop, the Cabinet Secretary for Transport, to the report of the Net Zero, Energy and Transport Committee—indeed, I seem to recall him speaking so warmly about it that he wondered whether he had damaged Ms Hyslop's political career and prospects. That was appropriate commendation, which shows why Fiona Hyslop is the Cabinet Secretary for Transport and is undertaking her responsibilities extremely well.

We listen carefully to the views of island communities, and we will continue to do so. I give that assurance to Mr Mountain. As someone who is a regular user of the Clyde and Hebrides ferry services and to whom those services are very precious, I will listen carefully to the views not just of my transport secretary but of islanders, so that I understand the need for them to have access to a high-quality service that will meet their needs as residents and as businesses, and that will enable them to accommodate visitors who access our islands.

**Katy Clark (West Scotland) (Lab):** Does the First Minister accept that it is now too late to go to tender, which means that, irrespective of the outcome of the due diligence process, it will be necessary for CalMac to continue to provide the service after September, and that it is therefore only fair to let CalMac know that as soon as possible?

**The First Minister:** As I said in my original answer to Mr Mountain, an update on the procurement route will be given before the summer recess. It will provide the clarity that Katy Clark reasonably asks for and will give certainty to island communities at that time.

**Jackie Dunbar (Aberdeen Donside) (SNP):** It is my understanding that the consultation ran for 12 weeks and closed in early March. Does the First Minister share my view that the voices and views of islanders and other ferry-dependent communities must be central to the process and that it is vitally important that the Scottish Government take the required time to study the responses and to fully appreciate what it is being told?

**The First Minister:** That dialogue is essential, as is the dialogue with the ferries community board, and those will significantly shape the dialogue that the Government takes forward on those important questions. I give Jackie Dunbar the assurance that we will take the necessary time to ensure that all those issues are properly explored before final decisions are taken.

**Jamie Greene (West Scotland) (Con):** Whether it was by direct award or by tender, the previous tender process was little more than a beauty parade with an inevitable outcome. Before we again hand the tender to CalMac on a plate, can we ensure that it delivers on the 350 overt commitments that it made last time it won the contract, of which more than 30 are yet to be delivered?

**The First Minister:** I am very much in favour of making sure that the expectations of communities are met in contract arrangements, and ministers will insist on that, so that we have a high-quality and reliable service for island communities. I am committed to ensuring that that is the case.

### Whooping Cough

6. **Bob Doris (Glasgow Maryhill and Springburn) (SNP):** To ask the First Minister whether he will provide an update on any risks presented by whooping cough in Scotland, in light of reports of increased infection rates and infant deaths in the United Kingdom. (S6F-03123)

**The First Minister (John Swinney):** I am sure that Parliament shares my concern at media reports of the tragic loss of five young lives as a consequence of whooping cough. Those deaths occurred in England, but Public Health Scotland has confirmed that notifications of whooping cough—or pertussis—in Scotland have increased since the beginning of the year and that the number of laboratory-confirmed cases is likely to rise in line with that.

Pertussis is spread by respiratory droplets, either directly between people or via contaminated items. Young, unimmunised children and babies are particularly at risk of severe illness. The infection can be prevented by immunisation, so I encourage parents to ensure that younger children and infants are immunised. Pregnant women should also receive the vaccine, which provides vital protection for the first few weeks of their baby's life.

**Bob Doris:** The First Minister is right to say that five babies in England have, tragically, died of whooping cough after a surge in infection rates there. He has also confirmed that a similar surge is already under way in Scotland.

Vaccination can protect babies, pregnant mothers and, importantly, their unborn children. It is worrying that the uptake of infant vaccinations appears to have fallen in recent times, with babies from the most deprived areas, including parts of my Maryhill and Springburn constituency, being less likely to be vaccinated.

Will the First Minister work with national health service boards right across Scotland to ensure that every effort is made to support midwives, health visitors and local vaccination teams to maximise uptake at this crucial time, as well as considering what steps our NHS can take to address the more general dip in vaccination rates right across Scotland?

**The First Minister:** I completely understand the concern that Mr Doris brings to Parliament. Immunisation is the most reliable way to protect babies in the early weeks of life. The chief midwifery officer is writing to maternity services to encourage and promote pertussis vaccination for pregnant women—doing exactly what Mr Doris has asked me to commit to. I will encourage the chief midwifery officer to support the awareness-raising efforts that are essential to ensuring that maternity services deliver that message to pregnant mothers and that vaccination uptake increases. We all know the importance of vaccination efforts and I give Mr Doris a commitment that the health service will follow exactly the approach that he has suggested to Parliament today.

**Carol Mochan (South Scotland) (Lab):** As has been said, statistics from England and Wales show that the uptake of immunisation against whooping cough during pregnancy has reduced sharply. As the First Minister has indicated, immunisation is important for expectant mothers. Do we know whether the trend is similar in Scotland? The First Minister mentioned some relevant responses, but will he work with Public Health Scotland to ensure that specific statistics on that are published, so that we can properly scrutinise the uptake by pregnant mothers?

**The First Minister:** I will explore the point that Carol Mochan puts to me. The data that I have on immunisation uptake from Public Health Scotland, which was published on 26 March, indicates an increase in uptake in relation to some vaccinations but, from the information that I have, I do not think that that is specifically about pertussis. I will give Carol Mochan a specific answer, but generally, on immunisation, the uptake is moving in the right direction, which we all want to see. I will provide a specific answer on pertussis in the aftermath of First Minister's questions.

### **Affordable Housing (Rural and Island Areas)**

**7. Rhoda Grant (Highlands and Islands) (Lab):** To ask the First Minister, in light of reports that only four homes have been approved nationally under the affordable housing initiative for key workers scheme, whether he will provide an update on what efforts the Scottish Government will make to address the reported housing crisis in rural and island areas. (S6F-03136)

**The First Minister (John Swinney):** Between April 2016 and March 2023, we have delivered more than 10,000 homes in rural and island areas. We are working with local authorities and registered social landlords to encourage utilisation of the £25 million key workers homes fund where there are identified local requirements. I am pleased that three local authorities are actively looking to bring forward proposals in rural communities. We will invest nearly £600 million in affordable homes across Scotland this year, including significant investment in rural and island areas through our mainstream affordable housing supply programme, as well as our demand-led rural and islands housing fund and rural affordable homes for key workers fund.

**Rhoda Grant:** I have spoken to NHS Highland on numerous occasions about health services at Portree hospital in the Isle of Skye. Each time I do so, it comes back to me saying that it can recruit, but the people whom it recruits cannot find a home and so cannot take up the post. Therefore, the First Minister will understand my concern that the £25 million Government fund to provide key worker housing has bought only four homes. What is wrong with the scheme? Why is it not working? Will he take matters into his own hands and fully implement the recommendations of Sir Lewis Ritchie's report? Will he ensure that those key workers have homes to live in in Skye?

**The First Minister:** I share the aspirations that Rhoda Grant has put to Parliament today. NHS Highland has a close working relationship with Lochalsh and Skye Housing Association, which has supported NHS Highland in providing housing for key staff in Broadford. Four flats have been

leased for nurses, three of which are supporting the international recruitment project that brings skills into the locality to meet some of the shortages that we are experiencing. The remaining flat is used for on-call staff. The board also leases two family homes for specialist staff located at the new Broadford hospital. All houses and flats in that development are fully occupied.

I hope that that reassures Rhoda Grant that, where these projects come forward, they are fully utilised and deployed. There is an invitation to public bodies to come forward with proposals to access the fund. The fund has not been fully utilised, so, from this podium, I encourage public authorities to come forward with their bids to address some of the issues that Rhoda Grant raises.

The issues that Rhoda Grant raises underpin the issues that Mr Ross and Mr Cole-Hamilton raised with me today about having accommodation available for staff in rural areas. I acknowledge that that is a problem. My long-term leadership of the convention of the Highlands and Islands over many years in government taught me that important lesson about the interconnectedness of housing. I encourage public authorities to come forward on the measures that will address those issues.

**Alasdair Allan (Na h-Eileanan an Iar) (SNP):** Access to affordable housing remains one of the key factors driving depopulation in our islands. There has been significant Scottish Government investment in recent years, but can the First Minister say more about the Scottish Government's approach to working with key stakeholders to ensure that empty homes are brought back into use and that enough new homes are being built in both rural and urban areas of the Highlands and Islands?

**The First Minister:** I recognise the importance of good-quality affordable housing in rural and island communities to address some of the public service delivery challenges that exist.

Dr Allan and I have discussed that issue on many occasions in taking forward issues in relation to the islands. We are working to increase the supply of affordable housing in rural and island areas. An investment of £3.7 million has been made in the Scottish empty homes partnership, which is making a real difference, with more than 9,000 homes having been brought into use since 2010. I want to see all local authorities and partners working together to consider all available options. The Government will be very much part of that discussion. The Minister for Housing, Paul McLennan, who is listening to these exchanges, will take forward the issue as a priority in order to ensure that we address the challenges that exist in many of the communities that Dr Allan represents.



**Miles Briggs (Lothian) (Con):** A freedom of information request has revealed that Scottish National Party ministers have no idea how many houses will be built in Scotland in the coming years. Under the Scottish Government's national planning framework, record low levels of land are coming forward in the development pipeline. What urgent steps will ministers take to review the Scottish Government's national planning framework? Why are ministers being so slow to take forward permitted development rights to build new homes in rural and island communities?

**The First Minister:** Mr Briggs needs to be aware of the Government's record on housing—*[Interruption.]*

**The Presiding Officer:** Members, let us hear the First Minister.

**The First Minister:** Let us look at the data. I am all for helpfully bringing data to the Parliament to inform parliamentary proceedings—it is part of my commitment to open government. Since 2007, 40 per cent more affordable homes have been delivered per head of population in Scotland than in England, and 70 per cent more than in Wales. *[Interruption.]*

I will repeat that so that everyone can hear it: 40 per cent more affordable homes have been delivered per head of population in Scotland than in England, and 70 per cent more than in Wales. Scotland's overall new house build completion rate in 2022-23 increased to 43 homes per 10,000 people. That was higher than the number in Wales, which was 18, and higher than the number in England, which was 38.

The Government is determined to ensure that we put the resources in place and activate private investment so that we can deliver the houses for people, because the Government has a formidable record on housing construction, which we are proud to proclaim to the people of Scotland.

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

### **Nuclear Reactors (Plans)**

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** This week, the Secretary of State for Scotland confirmed that planning is under way to develop new nuclear reactors in Scotland—*[Interruption.]*

**The Presiding Officer:** Let us hear Ms Mackay.

**Rona Mackay:**—despite opposition from the democratically elected Scottish Government. Scotland does not need expensive nuclear power; we already have abundant natural energy resources. Can the First Minister advise whether the United Kingdom Government has approached

Scottish ministers about those apparent plans? Can he confirm that the Scottish Government will oppose those plans and, instead, focus on Scotland's substantial renewable energy potential?

**The First Minister (John Swinney):** I am often lectured in the Parliament about the importance of good intergovernmental relations. The Secretary of State for Scotland has made no mention of the proposal to the Scottish Government. That is utterly and completely incompatible with good intergovernmental working and is illustrative of the damaging and menacing behaviour of the Secretary of State for Scotland.

The Scottish Government will not support new nuclear power stations in Scotland. I was in Ardersier on Monday and the Cabinet Secretary for Net Zero and Energy was in Nigg on Tuesday to support the announcements of formidable investments in Scotland's renewable energy potential. Those are massive investments that will bring jobs and opportunities to the Highlands and Islands and deliver green, clean energy for the people of Scotland. That is the Government's policy agenda, and we will have nothing to do with nuclear power.

### **Toll of Birness**

**Liam Kerr (North East Scotland) (Con):** Yet another crash at the notorious Toll of Birness last week resulted in four people in hospital and the road closed for hours. Promises to upgrade that junction date back to before 2007, when Alex Salmond said that his first decision, if elected as First Minister, would be to deal with that road. Seventeen years on, the promise is broken and there is continued carnage. Will the new SNP First Minister deliver on the promises that all previous SNP First Ministers have broken?

**The First Minister (John Swinney):** I will happily take forward the issues that Mr Kerr has raised with me today. The Government has an infrastructure programme that is taking forward developments around the country. I will look at the particular project that Mr Kerr has put to me and consider the position of that project in the Government's capital programme.

### **NHS Tayside**

**Michael Marra (North East Scotland) (Lab):** Board papers have revealed that the Scottish Government has demanded £54 million of cuts in this financial year from NHS Tayside. Officers have presented the board with options. One option is the removal of three operating theatres in a ward, which would mean 3,000 additional people missing out on vital operations this year. Another option is the end of breast cancer screening in a department that has been in crisis for years,

resulting in an inevitable decline in detection and the loss of life. Which should they choose, First Minister, or will you act to ensure that those consequences do not fall on your constituents and mine?

**The Presiding Officer:** Always speak through the chair.

**The First Minister (John Swinney):** Mr Marra raises important issues about the sustainability of health service provision, and the Government must live within the financial resources that are available to it. It is ludicrous for Mr Marra to come here with that question. I have gone through with Mr Sarwar the fact that the health service is the best funded part of our public services. It occupies a larger proportion of our budget than it did when this Government came to office.

In 2007, when this Government came to office, health service expenditure accounted for about 30 per cent of our total budget. That is now much closer to 50 per cent. The Government has substantially increased expenditure on health. To fund that, we have increased tax on higher earners. Mr Marra is opposed to that; he wants to make the situation worse. Mr Marra wants to reduce the amount of revenue that is available, but he wants me to fund more public services. Mr Marra cannot have his cake and eat it.

### Mental Health

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** It is mental health awareness week, and the theme is “moving more for our mental health”. We all know how important exercise can be for mental health, so the Scottish Government’s recent investment of a further £100,000 in the football-focused mental wellbeing changing room programme is very welcome. Will the First Minister say what other steps the Government is taking to support mental wellbeing and resilience in the community?

**The First Minister (John Swinney):** It is important that we all, where we can, take responsibility to look after ourselves. This morning, at 6 o’clock, I was running through the streets of Edinburgh to support my mental wellbeing, because I tend to find that I have a better time at First Minister’s question time if I have run in the morning than if I have not run in the morning—every week, members will be able to tell whether I have been out running in the morning.

Mr MacGregor raises a very significant issue. Through our communities mental health and wellbeing fund for adults, we have made available £66 million for community projects since 2021. The fund, which supported approximately 300,000 people across Scotland in its first year, is focused on addressing a number of mental health and

wellbeing concerns within local communities in Scotland. Since 2020, we have also made available £65 million to local authorities to develop community support projects, and the Government remains committed to doing the work and supporting the work that Mr MacGregor raised to assist in that respect.

The health secretary was in Aberdeen yesterday to launch the changing room programme, which is a welcome contribution to our efforts on mental health and wellbeing.

**The Presiding Officer:** That concludes First Minister’s question time. There will now be a short suspension to allow those leaving the chamber and public gallery to do so before the next item.

12:49

*Meeting suspended.*

12:51

*On resuming—*

## Foster Care Fortnight

**The Deputy Presiding Officer (Liam McArthur):** I encourage those who are leaving the public gallery to do so as quickly and quietly as possible, as we move on to the next item of business, which is a members' business debate on motion S6M-13031, in the name of Martin Whitfield, on foster care fortnight. The debate will be concluded without any question being put. I invite members who wish to participate to press their request-to-speak button.

*Motion debated,*

That the Parliament recognises Foster Care Fortnight, taking place from 13 to 26 May 2024; believes that foster care gives children the opportunity to experience family life in a stable, loving and nurturing home environment, when it is not possible for them to live with their birth families; recognises that the theme for 2024 is #FosteringMoments, which celebrates the big and small moments that make foster care so transformative; thanks the reported 3,261 fostering households in Scotland for what it sees as their dedication and commitment to caring for children and young people who, it believes, have had some of the most difficult starts in life in this country; notes reports that there are currently 4,155 children and young people living in foster care in Scotland; understands that fostering can be incredibly rewarding, but also challenging in the context of higher living costs, what it considers to be stretched public services, and the emotional and practical demands of the role; is concerned that the number of fostering households in Scotland is reportedly decreasing, and understands that 400 more fostering households are needed; notes the belief that a resilient and well-resourced foster care sector is vital to Scotland's work to keep The Promise, so that care experienced children and young people grow up safe, loved and respected, and further notes the calls for more support for foster carers to ensure that they can continue to do what they love, for the children and young people they love.

12:51

**Martin Whitfield (South Scotland) (Lab):** It is right that I start by thanking those members who supported the motion to allow the debate. I also thank those members who will participate in the debate and those in the audience who wish to stay for it.

This is an important debate. When we talk about fostering and foster families, what do we mean? In a situation in which a child cannot be cared for by their birth parent or by kinship carers such as extended family or close friends, they can be cared for by an approved foster family. The important two words in that are "family" and "approved". It is the coming together of an agreement that a family can care for a child from outwith that family.

This is an important debate because we take this time to mark foster care fortnight here in the

Parliament—because foster care is so important for our young people. At the outset, I thank the Fostering Network for its help on that. This year, foster care fortnight runs from 13 to 26 May, and looks at celebrating all those big and small moments that define fostering for carers, children and families.

The debate also allows me to give a plug for the Minister for Children, Young People and the Promise, who, on Sunday 19 May, will join fostering families in a short walk in Mugdock park in Milngavie, because the small moments—the sometimes less important moments, as they are observed to be by those on the outside—make all the difference to the young people, the children and, indeed, the families. In anticipation, therefore, I wish the minister well with that.

Foster care and foster carers are vital for the nurture and development of our children and young people. Foster care provides a loving home, care and support for some of the most vulnerable children in our society. Because of how important foster care is in the wider system of support for children and young people, it is critical that we get it right.

One part of getting it right is ensuring that we have enough foster carers. Another is supporting and equipping the ones that we have. Currently, there are 3,261 fostering households caring for 3,927 children here in Scotland. I am sure that all members will join me in simply saying thank you to each and every one of them for all the hard work that they do.

However, it is a sad reality that that number is just under 5 per cent smaller than it was last year. That means that we need to do more. The Fostering Network, alongside many agencies and local authorities, has voiced concerns that the number of fostering households in Scotland is decreasing. It is approximately 400 families short. In the debate, I hope that we can look at recruitment and retention, which are issues that many of our vital services face as our local authorities are stretched thin and our public services have less and less capacity.

There is, however, reward in fostering, which is partly what this fortnight celebrates. There are those moments when a giggle, a laugh, an ice-cream, an arm around someone at the right time or a silly story at bedtime can help the young person and the family that offers fostering. Retention goes hand in hand with ensuring that we get it right for our young people, which is about supporting, equipping and valuing our foster carers.

Some of the things that the network has said would improve retention are improved training,

increasing the status of foster carers and improving the pay that they receive.

**Roz McCall (Mid Scotland and Fife) (Con):** The member has just talked about steps to improve retention. The Fostering Network is using the step up step down approach that I refer to in my speech. Would the member support that form of inventiveness?

**Martin Whitfield:** So many interventions that support our foster families are crucial. I am thinking of Place2Be, whose exhibition outside the chamber I have the privilege of sponsoring this week, and the work that it has done directly with foster families—rather than the young people—to equip them with the tools, strategies and, sometimes, patience that is needed in difficult situations.

I am sure that other members will take the opportunity, as Roz McCall has done in her intervention, to look at how we can improve, at solutions and good practice, and at how we can do better across the board in order to have less of a postcode lottery.

East Lothian Council in my South Scotland region has highlighted the issues that it has had with the recruitment of foster carers in several reports in the past few years. One of the reports states:

“At this time, we do not have sufficient East Lothian Council foster carers to meet the demand of children who require foster placements.”

I know that East Lothian Council has done a significant amount of work and invested significant resources, and it continues to do so, but for the best outcomes for children and young people, we need to support and fund our local authorities and third sector organisations that provide similar services, because they are struggling to meet demand.

Supporting our foster carers and the children whom they foster is all part of the wider picture of ensuring that the Promise is more than just a headline. It is a key piece of the jigsaw that will ensure that care-experienced children and young people grow up safe, loved and respected. If we are serious about delivery and not just headlines, we need to fund our local authorities to do all those things, so that our hard-working foster carers can be supported well and so that, in turn, the children and young people receive the care and support that they need.

I thank once again all of Scotland’s brilliant, wonderful, marvellous foster carers and the Fostering Network for all the hard work that it does in supporting them and representing their voices.

In the spirit of this fortnight’s theme, which is #FosteringMoments, let the debate be the moment

in which foster carers and those in foster care know the importance that we, in Parliament, place on them, and let us make the next moment one in which Parliament helps to deliver the support that they need.

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

12:58

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** I am delighted to be able to speak in this important debate during foster care fortnight and I thank Martin Whitfield for bringing it to the chamber, even if he pronounced Milngavie incorrectly—I am sure that my colleague Marie McNair picked that up. I also acknowledge his dedication to the subject of care-experienced young people.

Nothing is more important than giving a child the best start in life and a loving, stable home. As the motion says,

“there are currently 4,155 children and young people living in foster care in Scotland”

but

“400 more fostering households are needed,”

and the number of fostering households has decreased by 4.8 per cent since 2021.

We are in the middle of a cost of living crisis, and people might understandably be nervous of further commitment. All foster carers receive a weekly fostering allowance when they have a child in foster care living with them. That allowance is designed to cover the cost of looking after a child. It varies with their age and includes the cost of food, clothes, toiletries and travel and other expenses that are incurred. There are issues around rates and a possible postcode lottery and I hope that the minister will address those in closing the debate.

Fostering is about more than finances, however; it is about setting a young person on the right course and giving them the precious gift of a family life. There is a particular need for foster carers who can look after sibling groups. In 2022, 70 per cent of services reported difficulties in recruiting families who could take siblings, and 24 per cent of family groups in foster care were placed separately. Keeping siblings together is a key tenet of the Promise, and I am dismayed to hear those figures.

Make no mistake, fostering can be demanding and stressful at times and it requires endless patience and problem solving. However, the emotional rewards far outweigh any of those things. Making a difference to a child’s life must surely be worth every sleepless night and the

extra grey hair. The theme of the 2024 fortnight is #FosteringMoments, as Martin Whitfield described, and those moments in a young person's life will last a lifetime.

I am proud of the Scottish Government's continuing commitment to fulfil the Promise and ensure that care-experienced children get the support and protection that they deserve. A key foundation of the Promise is that, when children are safe in their families and feel loved, they should stay. In 2023, 51 per cent of children leaving care in Scotland returned home to their parents, suggesting that more could possibly have been done to prevent those children from being taken into care in the first place.

The Scottish Government's whole family wellbeing fund is aimed at significantly reducing the number of children and young people who are living away from their families by 2030. Our recently passed Children (Care and Justice) (Scotland) Bill, which was introduced by the minister, builds on that commitment and is another step towards fulfilling our promise to them.

The Fostering Network, Adoption UK, Place2Be and other third sector organisations such as Children 1st provide a huge amount of caring for our children who need a home. I recently led a members' business debate and held a reception to highlight the great work that the Fostering Network does. Its fostering-friendly employer scheme focuses on how employers can support employees who are going through the fostering process. Its aim is to ensure that foster carers have the opportunity for paid leave, training, respite, meetings and other requirements to fulfil their vital role.

I hope that the scheme will help to boost awareness of the need for more foster carers and make employers think about how they could help employees to fulfil their wish. The scheme was set up in 2014 in response to findings that foster carers need more flexibility and understanding from their employers to work alongside fostering. There are now 120 fostering-friendly employers in the United Kingdom, and I am proud to say that I am one of them. I have spoken previously of the experience that I have of being a fostering-friendly employer. My head of office has two adorable adopted siblings and went through a thorough and detailed process, beginning with fostering. Now that I see those happy and thriving children, I know that every absence from the office was worth it.

I urge anyone who is considering fostering to reach out and make it happen—hundreds of children need you right now.

**The Deputy Presiding Officer:** I call Roz McCall, to be followed by the member for Milngavie.

13:03

**Roz McCall (Mid Scotland and Fife) (Con):** Thank you, Deputy Presiding Officer. On Rona Mackay's point, I will mention that my grey hair started after I adopted my two daughters.

I am delighted to speak today, and I thank Martin Whitfield for bringing forward this members' business debate to celebrate the Fostering Network, foster carers in general and this year's foster carers fortnight. I echo his comments about the minister—I know how much of a supporter she is. We met last year at Blair Drummond during fostering fortnight, and I will also be there in Mugdock country park in Milngavie on Sunday. I know the effort that the minister puts in.

This year, the theme is #FosteringMoments. As is customary, it is time for me to overshare, because the memories that I have of those early years when we were a fostering family and not a forever family are included in the moments that I will cherish all my life. It is the small things—the infinitesimal changes that do not immediately jump out at you but slowly creep up on you—that show that trust is growing, security and comfort are steeping in and that the barriers of safety that were built up over the times of uncertainty are not impregnable, as they once were.

There was that time when their young face searched the crowd at the school nativity and broke into a smile at seeing me, when it did not matter at previous plays; the time when they proudly showed me drawings in school work and progress charts, waiting with genuine eagerness for positive reactions, whereas, until then, the outward demeanour was nonchalant, casual and distant; and the time when they accepted my word in trust that I would be at the park and would not go away, and that I would go to the shops and that dinner would be on time, without questioning, anxiety and judging. Those are but minuscule moments in a person's perception, but nonetheless monumental changes for a child who had quite simply been let down by adults time and again.

We can never overestimate the role that foster carers play in building confidences and attachments in our young people. It is imperative that we ensure that that valued support continues. However, unfortunately, as has already been mentioned, foster carer numbers are declining.

I, too, thank the Fostering Network for its briefing for today. There is much in it that needs to be addressed. I have selected a couple of points. The Fostering Network states that, although the

number of children in care, including foster care, continues to decline in Scotland, the number of fostering households is falling at a faster rate, and that the Care Inspectorate has reported a downward trend in new foster carer approvals over the past five years, which has accelerated in the past year. That is concerning, especially when we add that to the recent report from Who Cares? Scotland, which rightly raised the point that, when it comes to the reduction of children in care, it is unclear whether that is indicative of progress towards the goal of keeping more children at home with their families or is due to a lack of social work intervention, which means that children are being left in unsafe homes. I urge the Scottish Government to ensure that all data collection on that issue is robust.

I am sure that the minister is aware of this, but I want to draw attention to the Fostering Network's fantastic step up step down initiative, which I have already mentioned in a badly worded intervention. That initiative, which is currently utilised in Northern Ireland and Wales, supports families on the edge of the care system. The process has demonstrated reduced numbers of children coming into care and improved outcomes for children and families. That not only supports the intention of the Promise but ensures that no child is missed. I would appreciate any chance that the minister has to discuss that with her directly.

In conclusion, our foster families go above and beyond for children in their care. Many take children beyond the age range that they are approved to take, and many look after more children than they are approved to have. "Thank you" seems to be too small a phrase for the work that they do. Nonetheless, I say, "Thank you."

13:07

**Marie McNair (Clydebank and Milngavie) (SNP):** I thank Martin Whitfield for bringing the debate to the chamber.

I draw members' attention to my entry in the register of members' interests. I was a councillor in West Dunbartonshire from 2003 until 2022.

I speak in the debate as a former councillor who sat on the council's adoption and fostering panel for over 15 years. That was a real privilege, and it gave me a greater insight into the importance of good foster care. That can have a profound impact on the lives of children and young people and can give them the chance to live in a loving and stable environment.

The annual campaign helps us to shed a positive light on foster care and lets us celebrate the hard work, dedication and commitment of foster carers. As has been said, as of July 2023, there were approximately 3,261 approved

fostering families in Scotland and 3,927 children living with foster families.

The theme of #FosteringMoments this year lets us celebrate the big and small moments that create memories and help to transform young people's lives—the moments that define fostering journeys. Very often, it is the small moments in foster care that have the biggest impact.

I was touched in reading about some of the moments that foster carers told the Adolescent and Children's Trust about. One that really hit me was this:

"The boys learning to ride bikes will be a memory that stays with me forever. I will never forget their whoops of joy as they shouted, 'I can ride a bike!'"

Andrew, a young person who was placed in foster care in East Dunbartonshire, said:

"Every day is always good with my foster parents but the thing that I always love is on a Sunday, whether it is warm or rainy, loads of family come up and my foster mum makes a massive steak pie, and everyone is there and we all just eat together and watch TV. It's not much, but it means a lot to me. I am grateful for the life they have given me. This has been the best life I could have hoped for."

It is clear that those small moments that some of us might take for granted have the biggest impact and help to transform the lives of young people in care. Whatever the fostering moment is, it is about making a connection with that young person and making them feel cared for. No matter how small the moment, it has a huge impact.

In my constituency, there are many excellent foster carers, and I am grateful to them. The health and social care partnerships in East Dunbartonshire and West Dunbartonshire do amazing work, providing support groups, training and dedicated support workers for foster carers in the area. Supporting foster parents is essential, and I know that many of them would struggle without the support of their supervising social worker. When foster parents are well supported, they are able to offer the best care for the children and young people they look after.

Although we recognise the commitment and the amazing work of current foster carers, this fortnight also gives us a chance to encourage others to take up foster care. Of course, it is not something that someone should rush into. It is challenging, but it is really rewarding. However, there are many caring individuals out there who could change the lives of people in care, so, if someone thinks that this might be a thing that they could do, I ask them to please consider it—we are always looking for more foster carers.

Every child deserves to grow up safe and loved, and good foster care can change a child's life—it can turn it around and put that child on a path to a brighter future. I celebrate the work of our local

foster carers and thank them for everything that they do. I cannot thank them enough.

13:11

**The Minister for Children, Young People and The Promise (Natalie Don):** I thank Martin Whitfield for initiating today's debate, and I thank members for their speeches this afternoon, which included some personal contributions.

The debate has enabled the Parliament to recognise the Fostering Network's annual foster care fortnight. As members have said, it is an excellent opportunity to celebrate foster carers and acknowledge the vital difference that they make to the lives of children and young people. Earlier this week, I published a letter to all foster carers, thanking them for all that they do, but I also want to put on the record here today my sincere thanks to all foster carers and practitioners working in the sector. We absolutely recognise the key role that they play in providing nurturing homes and wider support for children and young people across Scotland. What they do positively transforms lives, and the family-based care that foster carers provide is a key to our collective commitment to keep the Promise.

I also take this opportunity to add my thanks to the Fostering Network in Scotland for all the work that it does to organise foster care fortnight. It has been heartening to see this year's theme of #FosteringMoments being shared on social media, and I was delighted to take part by sharing a short video highlighting some of my favourite fostering moments. Some of those include meeting with foster carers at Blair Drummond park for last year's foster care fortnight, which has already been mentioned; meeting the Fostering Network's young people's advisory board, which is an inspiring group of young people; and hosting a small event in Parliament for some incredible foster carers, young people with care experience, sons and daughters, social workers and others in the fostering community who had won a fostering excellence award. Such memories hold a special place in my heart and motivate me to continue working hard to improve fostering and keep the Promise. Martin Whitfield is right to say that I will be walking for foster care fortnight, and I look forward to that day being a huge success.

As Martin Whitfield highlights in the motion, and as many others have said, there are challenges, including the retention and recruitment of foster carers. However, there are also opportunities for everyone—national Government, local government, the third sector and local communities—to support our foster carers. As we have said, foster care is absolutely key to delivering fully on the Promise, and it is vital that the Scottish Government leads from the front if we

are to ensure that all care-experienced children and young people are supported to grow up loved, safe and respected.

We set out our commitment to do that in the Promise implementation plan, which was published in 2022 and will be updated in the coming weeks. This is an important year for the Promise—a year in which we are reflective but we look forward to the steps that we still need to take to fulfil our commitment. Fostering is an important part of that.

Our vision is to ensure that every child lives in a safe and loving home and that families are supported to overcome difficulties and stay together.

**Roz McCall:** On the point about the Promise hoping to keep families together and your other points, would you be willing to meet me to talk about step up step down? They have it in Northern Ireland and Wales, so maybe we could have a look at it in Scotland.

**The Deputy Presiding Officer:** Please always speak through the chair.

**Natalie Don:** Absolutely. I was going to come on to step up step down. I am interested in the outcomes of that programme, so my officials have met representatives from the Fostering Network in Northern Ireland, which runs step up step down, and they will continue to liaise with the Northern Ireland and Welsh Governments, who are also piloting it, to measure the outcomes. I am also happy to discuss that more with the member.

Work has begun on delivering that vision, aligned with the Government's mission to eradicate child poverty, redesign the children's hearing system and look at the future of children's services. We have provided funding to the third sector to support foster carers, including £150,000 to the Fostering Network Scotland this year to support the Fosterline Scotland service.

The Scottish Government has also been working with a small group of partners, including the Fostering Network, The Promise Scotland, local authorities and others to look at how we attract and retain foster carers and what action we can take collectively. The group has developed proposals that include a package of emotional, practical and financial supports for foster carers so that they can feel better valued and supported. The proposals will form part of a public consultation on the future of fostering that we will launch in autumn this year.

Our fostering consultation, which is part of a wider co-ordinated package of consultations, will propose a new vision for foster care in Scotland in the 21st century, with early intervention, prevention and family reunification at its heart. The

consultation will also outline the work on recruitment and retention that is already under way, as well as some new proposals. We will ask about the practice-based issues that we have heard impact on foster carers day to day.

We also plan to undertake extensive engagement with children and young people with experience of foster care, foster carers, practitioners and all those within the fostering community. Voice was at the heart of the independent care review, and, as I have said before and will say again, it is essential that voices continue to be heard and inform our work to keep the Promise.

On the financial side, as Ms Mackay has noted, there is more work to do. However, last August I was able to introduce the Scottish recommended allowance for foster and kinship carers. That was a huge milestone. It is making a big difference to the daily lives of more than 9,000 children and young people in foster and kinship care in Scotland. I know that there is more to do, and that will be explored in the consultation that I mentioned earlier. Given the financial challenges that the whole public sector faces at the moment, I am also considering carefully uprating the allowances in the current financial year. I plan to make an announcement shortly, following discussions with the Convention of Scottish Local Authorities.

On the practical side, we have also started work to scope out how we can use training to best support foster carers to deal with the impact of trauma on the children and young people whom foster carers care for. Last year, during a members' business debate led by Rona Mackay, I made the commitment that the Scottish Government would look at opportunities to become a more supportive and flexible employer for employees who are also foster carers.

I am delighted to say that we are working towards having the Scottish Government's human resources special leave policy updated by autumn 2024, so that all employees who are foster and kinship carers will have access to dedicated foster and kinship leave to support their roles as carers. My hope is that, by leading from the front, the Scottish Government can work with other public and private sector employers across Scotland and persuade them to do the same by supporting their foster and kinship carers.

Today's debate is an important opportunity to reflect on our collective work to keep the Promise by 2030, and I again thank Scotland's foster carers for their commitment. There is no doubt that they improve the lives of the children and young people in their care and make our collective vision for them a reality.

**The Deputy Presiding Officer:** That concludes the debate. I suspend this meeting of Parliament until 2 o'clock.

13:19

*Meeting suspended.*



14:00

*On resuming—*

## Portfolio Question Time

### Education and Skills

**The Deputy Presiding Officer (Annabelle Ewing):** The next item of business is portfolio questions on education and skills. As always, I make a plea for succinct questions and answers, in order to allow as many members as possible to participate.

#### Scottish Funding Council (Subject Price Groups)

**1. Audrey Nicoll (Aberdeen South and North Kincardine) (SNP):** To ask the Scottish Government when the Scottish Funding Council's subject price groups for higher education were last reviewed. (S6O-03436)

**The Minister for Higher and Further Education; and Minister for Veterans (Graeme Dey):** The subject groupings within the price groups were last formally reviewed in academic year 2017-18 with a group of sector representatives. The recommendation from that group to the Scottish Funding Council was that no changes should be made at that time. The SFC is planning to commence a further review of the subject groupings within its price groups during academic year 2024-25, as part of a wider review of its approach to teaching funding.

**Audrey Nicoll:** I recently met the principals of the University of Aberdeen and Robert Gordon University and heard about the widening gap between the Scottish Funding Council price allocation and the actual cost or resource that is required to deliver courses and other activities. I am aware that the transparent approach to costing methodology is an attempt to measure that across the United Kingdom, and confirms a gap at aggregate level. I was not aware of any recent analysis in Scotland, but the minister has just clarified when that last happened. Could consideration be given to a fresh analysis of the cost relative to price, on a subject price group basis, for universities, as he set out, to determine whether the funding gap has become more concentrated in specific subject areas?

**Graeme Dey:** As I noted earlier, the Scottish Funding Council is planning to start its review of price groups during the next academic year. That will be part of a wider review of its approach to teaching funding, which will involve engaging across the sector and will cover the point that Audrey Nicoll has raised.

**The Deputy Presiding Officer:** We have a number of supplementary questions, and the first is from Liam Kerr, who joins us remotely.

**Liam Kerr (North East Scotland) (Con):** It is good to hear about the review that will take place. Will the number of subject groups form part of that review? If so, how will the minister avoid adding complexity to an already challenging situation?

**Graeme Dey:** As a point of principle, I agree with Liam Kerr that any changes that we make should, wherever possible, declutter the landscape, rather than complicate it further. I accept that the teaching price group model is rather complicated, so I hope that the SFC will actively look at that, as part of the review. However, Mr Kerr will understand that he and I are not experts in that field, and that there might be a sound reason for the approach that has been taken.

**Pam Duncan-Glancy (Glasgow) (Lab):** On the allocations this year, the minister will be aware that Scotland's post-1992 universities, which are key to widening access and training for health and social care staff, feel that they have had a disproportionate cut. What discussion has the minister had with the SFC on that? What is his understanding of why that has happened?

**Graeme Dey:** I have had a discussion with the SFC and I have been in contact with the post-1992 universities. Part of the issue in the allocations process is that there are winners and losers. I am keen to explore how we—the Government, the universities and the SFC—will arrive at final allocations in the future, because I want to ensure that, if the sector can produce a coherent ask or a set of deliverable preferences, it is fully considered as part of the process.

**Beatrice Wishart (Shetland Islands) (LD):** When looking at pricing for higher education, what measures, in addition to the Scottish Funding Council's rural and remoteness funding premium, can be taken to ensure that courses are appropriately funded and that availability of courses does not come down to what is cheapest to deliver? That is a concern in my constituency, given the restructuring at UHI Shetland.

**Graeme Dey:** Beatrice Wishart has raised quite a complex issue, so rather than give her a quick-fire answer, I commit either to writing to her or to engaging with her directly on that subject.

#### College Regions (Glasgow and Lanarkshire)

**2. Graham Simpson (Central Scotland) (Con):** To ask the Scottish Government whether it will provide an update on when a decision will be made regarding the Scottish Funding Council's recommendation to end the regional colleges

arrangement in Lanarkshire and Glasgow. (S6O-03437)

**The Minister for Higher and Further Education; and Minister for Veterans (Graeme Dey):** I have taken time to consider the Scottish Funding Council's advice and the practicalities and implications of implementing any changes within the Glasgow and Lanarkshire college regions, in the context of wider reform. It was right to listen to different perspectives and concerns.

That process is now complete, and I can confirm to Parliament today that I intend to undertake a formal consultation on the future of the Glasgow Colleges Regional Board and the Lanarkshire Board, as I am required to do, with my preferred option being to dissolve both boards.

**Graham Simpson:** I thank the minister for that very helpful answer. I wonder if, as a follow-up, he can give us some idea of the timescale for that consultation. Should the consultation agree with the minister, when would we expect to see the change in the current arrangements?

**Graeme Dey:** We will seek to launch the consultation in the coming weeks. I am looking across the chamber at the convener of the Education, Children and Young People Committee, the busy schedule of which will, no doubt, have an impact on the process. My aim is to have it completed in time for the next academic year; I hope that the process will be completed within six to nine months maximum.

**Collette Stevenson (East Kilbride) (SNP):** As the constituency MSP for East Kilbride, I very much welcome the news. Can the minister outline the benefits that the new funding arrangements will bring to students, staff and South Lanarkshire College as a whole?

**Graeme Dey:** I hope and expect that the abolition of the regional boards will act as a spur to individual colleges. The action is certainly one that the overwhelming majority of colleges have been pressing for. I know, from visiting South Lanarkshire College, of the ambitious plans that its principal has and would pursue, were she to find herself freed from the existing governance model. I have every confidence that that particular institution will thrive under the changes that we are proposing.

**Pam Duncan-Glancy (Glasgow) (Lab):** Does the minister agree that there is a need for a co-ordinating mechanism on skills across the Glasgow region? Will he meet me to discuss what we could do to put something like that in place, if the Glasgow Colleges Regional Board were to be dissolved?

**Graeme Dey:** I am, of course, happy to meet Pam Duncan-Glancy, but I point out that there is a

co-ordinating regional model in place for skills co-ordination, which we are working with, and which colleges in Glasgow and the greater Glasgow area feed into. I am happy to discuss the matter further with Ms Duncan-Glancy.

### School Starting Age

3. **Fulton MacGregor (Coatbridge and Chryston) (SNP):** To ask the Scottish Government what consideration it has given to raising the school starting age and implementing a universal kindergarten stage. (S6O-03438)

**The Minister for Children, Young People and The Promise (Natalie Don):** Mr MacGregor will be aware that I have met representatives of Upstart Scotland. I was impressed by their level of knowledge and enthusiasm in relation to this policy area.

As for what we are currently doing, since 2014 the Scottish Government has almost doubled the entitlement to high-quality funded early learning and childcare to 1,140 hours per year for eligible children, including all children who defer their school entry. The curriculum for excellence spans ELC and primary school, and it supports the implementation of a play-based curriculum until the end of primary 1. I have seen that in action during some of the visits that I have had the pleasure of making.

Although I am interested in further exploration of a kindergarten stage, that would be a fundamental change in our education system and it would require further work to understand the cost and how such a proposal could be implemented in Scotland in the future.

**Fulton MacGregor:** I thank the minister for that response. Because of a decision that was taken in 1800s Victorian Britain to start children at school at five years of age, Scotland and, indeed, the United Kingdom lag behind our European neighbours. In many other countries, children start school at six or seven years old.

What assessment has the minister made of Upstart Scotland's research, which indicates that the nations that have already implemented a kindergarten stage have been rewarded by the greatest success in international comparisons for education and child development, and that later school entry would help to close the attainment gap and address mental and emotional health issues and behavioural issues for Scotland's children? Will she join me in calling for a national discussion on the issue to foster debate within Scottish society?

**Natalie Don:** I thank Upstart for its research and continued work in the area. We know that high-quality ELC makes an important contribution to children's outcomes, particularly for those who

grow up in disadvantaged circumstances. It is critical that parents can make the right choice for their child, which is why we legislated to allow access to an additional year of funded ELC to all children who defer starting primary school. In my view, it is important that we fully understand the impact of the guidance and of our transformational investment in ELC before we consider any further major reforms.

The final evaluation report on the expansion of funded ELC to 1,140 hours is due to be published by the end of 2025. In the meantime, as I have said, I am interested in the subject and would be happy to meet Fulton MacGregor and Upstart Scotland to hear more about the research into other nations and to discuss what a national conversation might entail.

**Roz McCall (Mid Scotland and Fife) (Con):** The benefits of good early years education cannot be overstated. It promotes nurture, socialisation and the development of meaningful relationships. It helps to develop a child's interests through investigation and discovery, promotes physical development and develops problem solving, risk assessment and resilience. In the light of those benefits, will the minister advise us what other international examples have been researched, what models are currently suitable to Scottish anthropology and how that will inform the Scottish Government's approach in the future?

**Natalie Don:** Our internationally respected early years practice guidance, "Realising the Ambition: Being Me", promotes play-based and outdoor learning and spans ELC and primary school. I understand that Upstart Scotland has said that if that document could be translated into practice in all Scottish early years settings, including in primary 1, Scotland's ELC provision would be up there with that of the Nordic countries.

As I said, I am happy to explore that further, which will include looking at international examples. I would be happy to discuss that with the member.

**Martin Whitfield (South Scotland) (Lab):** We know that children are ready for formal learning and for changes in stages at different times. That is the defining reason for their being able to defer the start of schooling. What thought has the Scottish Government given to how we can support children who are not ready to move on to the next school year as they move further through their education journey?

**Natalie Don:** Mr Whitfield has raised a really important point. We know that some children are not ready to start school at five, which is why we legislated to ensure that all children who defer starting school are automatically entitled to ELC.

I recognise that the question goes further and applies to pupils who are in school and moving between years. I emphasise that we are currently undertaking an ambitious programme of education reform and that we might need to have that kind of conversation. In the interim, I will ask the Cabinet Secretary for Education and Skills to write to Mr Whitfield regarding the current support measures that are on offer.

**Willie Rennie (North East Fife) (LD):** Fulton MacGregor asked an excellent question and I am fully behind that suggested change. It is important that we support Upstart's campaign for a delay to the start of formal education and the introduction of a kindergarten stage.

Kaukab Stewart has done a lot of work on the matter. I hope that, in the spirit of our new Government, the minister will be open to cross-party work to take that forward and to gather the evidence that she is looking for. Will the minister consider that?

**Natalie Don:** I know that the policy has support from members across the chamber and I hope I have been clear that I am certainly open to conversations about that, which absolutely would include cross-party work.

#### **Music Teachers (Primary School)**

4. **Miles Briggs (Lothian) (Con):** To ask the Scottish Government what it anticipates the impact of the reported reduction in primary school music teacher numbers will be on children and young people. (S6O-03439)

**The Cabinet Secretary for Education and Skills (Jenny Gilruth):** Primary school teachers are generalists who are trained to teach the whole curriculum. Although it is for local authorities to ensure adequate provision of education staff, this Government remains committed to protecting teacher numbers and we are offering local authorities an additional £145.5 million in this year's budget for that purpose.

The Government has supported a transformation in access to music tuition across Scotland by supporting councils to eradicate unfair charges for instrumental music tuition in schools. The most recent instrumental music survey, which was published in December last year, showed that the number of pupils participating in instrumental music tuition is at a record high.

**Miles Briggs:** The cabinet secretary mentioned protecting teacher numbers, but there are now only 37 specialist music teachers in primary schools across Scotland. That number is down from 98 in 2008, the first year of the Scottish National Party being in power, and down from 108 in 2011.

Does the cabinet secretary share my concern that, in a country with such rich musical traditions as Scotland, young people are not getting the access to specialist music tuition that we had when we were at primary school? What is she doing about that?

**Jenny Gilruth:** As I said in my original response, primary school teachers are generalists. When Mr Briggs and I were at primary school, we had a system whereby peripatetic teachers might come in to deliver music education or drama, for example. That system is not necessarily replicated across the country now. However, the Government is investing in employing record numbers of teachers in our schools and, since the pandemic, we have made significant additional investment to support a policy of maintaining teacher numbers, which I, as a former teacher, think is hugely important.

Yesterday, I was at the conference for religious education teachers at Queen Margaret University, and they asked me exactly the same question in relation to religious education. I think that there is an opportunity through education reform for us to better support specialisms in schools, particularly primary schools. I see Liz Smith nodding—we discussed this topic when we served on the Education and Skills Committee in the previous parliamentary session.

I am more than happy to have that conversation with Miles Briggs, but the question for the Opposition is how we fund that, given the additionality that Government is already putting in to fund the protection of teacher numbers, which is a policy that I support.

**Foysoyl Choudhury (Lothian) (Lab):** A 2022 national partnership for culture report found that 73 per cent of primary school teachers feel unprepared by their initial teacher education to teach music. The same percentage of primary teachers also reported feeling underresourced to deliver culture as part of the curriculum. In the light of the reduction in the number of music specialists, as highlighted by Miles Briggs, what action is the Scottish Government taking to ensure that primary school teachers have the skills and resources to support culture?

**Jenny Gilruth:** Back in, I think, 2012, Education Scotland published a report in relation to social studies, which specifically looked at primary school teachers' confidence in delivering modern studies and at issues about political literacy. Similar challenges were expressed in regard to that specialism, so this is not only about music education, although I accept that that is the premise of the original question. It is about how we can better support specialisms in our primary sector, recognising that those teachers are

generalists and they are expected to deliver the totality of Scotland's curriculum.

The major way in which we will improve support of primary teachers is through improving Scotland's curriculum. We have already started some of that work in relation to maths education through the curriculum improvement cycle. Culture, and the role that it represents in the current curricular areas, will be part of that curriculum update, and ensuring that we can better equip Scotland's teachers will be part of the process.

### School Buildings (Asbestos)

**5. Marie McNair (Clydebank and Milngavie) (SNP):** To ask the Scottish Government what discussions it has had with the Convention of Scottish Local Authorities regarding the management of asbestos within school buildings. (S6O-03440)

**The Cabinet Secretary for Education and Skills (Jenny Gilruth):** Local authorities have statutory responsibility for the control and management of asbestos in their schools. However, the Scottish Government has recently engaged with COSLA and local authorities on this matter. For example, through our recent engagement about the Health and Safety Executive's "Asbestos—Your Duty" campaign, we flagged the risk of asbestos and raised awareness of the legal duty to manage those risks.

I should also highlight that health and safety is not devolved to the Scottish Government, and the Health and Safety Executive has United Kingdom-wide responsibility for enforcement of the Control of Asbestos Regulations 2012.

**Marie McNair:** One of my constituents, who is 32, was diagnosed with mesothelioma at 30 years of age. She believes that that is because she was exposed to asbestos in the built environment and she strongly suspects that it was from the school that she attended in Clydebank. My constituent is a member of the Clydebank Asbestos Group, which supports the phased removal of asbestos from the school estate.

Will the cabinet secretary agree to meet me and campaigners, including the Clydebank Asbestos Group? The meeting will be an opportunity to hear the concerns about the presence of asbestos in schools, and representatives of COSLA should also be invited to attend.

**Jenny Gilruth:** I thank Marie McNair for raising a hugely important point. Thanks to investment from this Government, the school estate in Scotland has improved, from around 60 per cent of schools being in good or satisfactory condition to, today, more than 90 per cent of schools being in good or satisfactory condition.

However, I very much recognise the challenge that the member has presented. I know that the Clydebank Asbestos Group helped to provide support, advice and information to victims of asbestos, such as the member's constituent, and to their families. I would be more than happy to meet the member and her constituent to discuss the matter in more detail.

### Digital Strategy for Education

**6. Clare Adamson (Motherwell and Wishaw) (SNP):** To ask the Scottish Government whether it will provide an update on the development of a digital strategy to help ensure that digital provision supports the wider aims of the education system. (S6O-03441)

**The Cabinet Secretary for Education and Skills (Jenny Gilruth):** As set out in the 2023 programme for government, work has commenced on development of a new digital strategy for education. Working in partnership with the Convention of Scottish Local Authorities and the Association of Directors of Education in Scotland, we will establish an advisory group to support both the development work and wider engagement across the system. We expect to publish that in autumn 2024.

**Clare Adamson:** With rapid developments in digital technology, the new cross-party group on the Scottish games ecosystem has exposed an issue around Scottish Qualifications Authority college qualifications. The college qualifications have not been updated in 13 years. A college lecturer spoke at the CPG about a course that still talks about Flash Player, which I used as an information technology professional more than 24 years ago.

Will the new digital strategy work to update educational qualifications in the games and artificial intelligence-adjacent courses, so that skills and education keep pace?

**Jenny Gilruth:** I thank the member for her question, in particular as it relates to colleges. She will know that Professor Louise Hayward's review, which was published last year, looked specifically at the opportunities that AI presents and at supporting the development of new qualifications as part of our programme of education reform.

I would be more than happy to ask the Minister for Higher and Further Education to engage with the member on the specific issue in relation to colleges. More generally, it is important that our new digital strategy for education outlines the role that we believe digital tools and services will play in the future of Scottish education.

**Sue Webber (Lothian) (Con):** As we all know, the pace of development in digital is quite breathtaking. Can the cabinet secretary provide

clarity on delivery on the ground in classrooms and, importantly, when teachers and learners will start to benefit from the digital strategy before, quite frankly, it is obsolete?

**Jenny Gilruth:** As Ms Webber will recognise, part of the budgetary process that I now oversee will invest £10 million to support digital inclusion for hard-pressed families who are struggling with the cost of living. I understand that the funding is currently being distributed through COSLA to local authorities that will then have the power to make a difference in their communities by enacting the types of changes that we will need to support the new digital strategy.

As well as providing that additionality, it will be incumbent on the Government to progress the strategy that will sit alongside it and the actions that will help to support the development of the new qualifications. To that end, I look forward to coming back to Parliament in the coming week to give a further update.

### Free School Meals (Income Threshold)

**7. Carol Mochan (South Scotland) (Lab):** To ask the Scottish Government when it will next review the income threshold for free school meals for those pupils not in a year where provision is currently free. (S6O-03442)

**The Cabinet Secretary for Education and Skills (Jenny Gilruth):** Universal free school meals are available to all pupils in primaries 1 to 5 and in special schools. We remain committed to further expanding universal free school meals to all pupils in primaries 6 and 7.

For year groups outwith the current universal offer, we last amended the eligibility criteria on 1 April 2024, following the latest increases to the national living wage. The eligibility criteria were amended for families in receipt of either tax credits or universal credit.

The Scottish Government continues to regularly monitor the eligibility criteria for free school meals to take account of changes in circumstances, such as further increases in the level of the national living wage.

**Carol Mochan:** There is not one Labour member who does not share the First Minister's priority of ending child poverty. However, the reality is that, even allowing for what the cabinet secretary has said, in Scotland some children are still going hungry. Key stakeholders, including Aberlour, have argued that we could make further changes to the income threshold per pupil in years where the provision is not free, which would improve even further families' access to free school meals. Will the Government commit to looking at how much further it could increase the

threshold so that more families would be able to access that provision?

**Jenny Gilruth:** Ms Mochan might know that, yesterday, along with her colleague Monica Lennon, I attended a round-table meeting on free school meals provision. It is worth while reminding the chamber that Scotland has the most generous offer of free school meal provision across these islands. However, Ms Mochan raises a hugely important point. The Government regularly updates the eligibility criteria that we set for free school meals, and we last did so in April. I would be more than happy to discuss the matter with officials, in recognition of the pivotal role that free school meal provision plays in helping to tackle child poverty.

**Brian Whittle (South Scotland) (Con):** While we are discussing free school meals, will the cabinet secretary consider providing morning activities with breakfast as a worthwhile investment against the costs of issues such as poor physical and mental health, attainment and behaviour, and hunger? Might she even consider a pilot scheme on that subject?

**Jenny Gilruth:** I recognise Brian Whittle's clear interest in the area, and we have discussed it at length in the chamber on a number of occasions. The connection between nutrition and physical activity is hugely important. Only today, we heard the First Minister talk about his own commitment to running and the impact that it has on his wellbeing. I would be more than happy to discuss the issue with Mr Whittle. I would have to look at my budget in relation to the opportunities that such a pilot might present. It is also worth while saying that the Government has a commitment to run a pilot in our secondary schools in relation to free school meals. We might be able to consider the member's suggestion as part of that work.

**Audrey Nicoll (Aberdeen South and North Kincardine) (SNP):** It is very welcome that the Scottish Government remains committed to expanding free school meal availability. Can the cabinet secretary provide an update on what assessment the Scottish Government has made of the rate of uptake of free school meals? Can she say any more about what steps can be taken to maximise uptake?

**Jenny Gilruth:** Last year, our healthy living survey found that the percentage of eligible pupils who were taking a free school meal was 70.4 per cent, which represented an increase on the previous year. In addition, our pupil census data shows that more than half of all pupils are now registered for free school meals. However, we recognise that the percentage of pupils who are taking a meal is still lower than it was prior to the pandemic, when around 76 per cent of eligible pupils were recorded as taking free school meals.

The fall in uptake partly reflects some changes in eating habits that occurred during the pandemic, which resulted in more pupils taking packed lunches to school than was the case prior to lockdown. However, as I stated in my original answer to Carol Mochan, we remain absolutely committed to further expanding the provision of universal free school meals to all pupils in primaries 6 and 7.

**The Deputy Presiding Officer:** Question 8 has been withdrawn, so that concludes portfolio question time. There will be a short pause before we move on to the next item of business to allow front-bench teams to change position, should they so wish.

## Prison Population

**The Deputy Presiding Officer (Annabelle Ewing):** The next item of business is a statement by Angela Constance on Scotland's prison population. As the cabinet secretary will take questions at the end of her statement, there should be no interventions or interruptions.

14:26

**The Cabinet Secretary for Justice and Home Affairs (Angela Constance):** I last updated Parliament on the prison population in late February. Although population levels were still concerning at that point, we had seen a period of limited overall growth over the preceding four months.

Unfortunately, that has now changed. Over the past two months, the population has risen sharply, from 7,948 on 18 March to 8,348 this morning. Given that sudden increase, I felt it critical to keep Parliament updated, to outline what action is being taken in response and to highlight some stark and challenging decisions on which Parliamentary approval will be sought over the coming weeks and months.

The immediate cause of the sudden increase is unclear and the present rate of growth might not continue. However, with the population having increased by around 13 per cent since the start of 2023, there is extremely limited capacity to absorb even temporary increases.

This morning's figure of 8,348 individuals in custody represents one of the highest-ever prison populations recorded in Scotland. There is now a critical risk to the continued safe and effective operation of the estate, with multiple prisons now being essentially full.

The Scottish Prison Service's ability to deliver rehabilitative regimes has been severely curtailed; visits to prisoners are becoming difficult to maintain; and there are increasing challenges to the effective delivery of national health service services.

It is worth noting that we are not alone in that—England and Wales and Northern Ireland are facing similar challenges. The United Kingdom Government has announced a number of measures in response, including legislating for a presumption against short sentences; expanding provision that facilitates the early removal of foreign nationals; and continuing to extend its early release scheme, with recent reports suggesting that some prisoners might be released up to 70 days early, which represents an increase on last year's figure of 18 days.

Significant work is already under way to address the issue. Since the population began rising again last year, the SPS has been at the forefront of managing the situation, and I would like to thank all those who are working in our prisons in increasingly challenging circumstances.

The SPS has kept its population management strategy under review to ensure the best use of the estate, including by introducing a centralised and more strategic process for prisoner transfers. It is also exploring the feasibility of adding temporary accommodation, as has been done in England and Wales. That is not a quick fix, but it might become necessary if numbers continue to rise. Excellent progress is being made to optimise the use of home detention curfew, which is informed by risk assessment with individuals who are released subject to licence conditions. There are currently 97 people on home detention curfew, which is an increase from around 50 to 60 previously. The SPS's on-going work will benefit from a 10 per cent increase in its resource budget in 2024-25.

Looking beyond the SPS, we are taking action in a number of areas. We have increased funding for community justice by £14 million in 2024-25, to £148 million in total.

To address the high remand population, we have introduced electronically monitored bail and supported the expansion of bail supervision to all areas. The latest official statistics show that bail supervision is at record levels. We are preparing for the implementation of measures in early July that will enable courts to take into account time spent on electronically monitored bail in sentencing, as part of the Bail and Release from Custody (Scotland) Act 2023. Later this year, commencement of provisions from the Children (Care and Justice) (Scotland) Bill, which was recently approved by Parliament, will end the imprisonment of under-18s, creating further capacity at HMP Polmont. We are also considering whether compassionate release could be used more broadly in appropriate cases, taking into account the ageing population and the prevalence of complex health and social care needs. In all this, we are working across the justice system and beyond, including with health and social care colleagues in particular, to identify potential solutions.

Despite all the steps that are under way, it is increasingly clear that further action is required. The measures that I have described will simply not have as large an impact as is necessary to avert a crisis—we should be in no doubt that that is what we are facing. If our prisons are to remain functional and able to house the most dangerous offenders, we have no choice but to take urgent action to reduce pressure on the estate. For that

reason, I will be seeking Parliament's input on, and consent for, three measures that I consider are now necessary.

The first is emergency release. On 26 May, we will bring into force section 11 of the Bail and Release from Custody (Scotland) Act 2023, which was scrutinised by Parliament last year and which provides ministers with a power to release prisoners in emergency situations. My hope was that that power would never need to be used; however, as things stand today, my view is that we have reached the threshold for taking emergency action. The sudden and sharp rise in the prison population over recent weeks, combined with the fact that that population is already high, has significantly increased the risk to the health, safety and welfare of both prisoners and SPS staff, as well as to the security and the good order of the prison estate. Serious concerns have been formally raised with me by the chief executive of the SPS, His Majesty's chief inspector of prisons and the Prison Governors Association.

If the legal test for use of emergency release is satisfied when the provisions come into force on 26 May, I intend to introduce a proposal for Parliament's consideration as soon as possible within the following two weeks. Members will have the opportunity to scrutinise and debate the approach. In this instance, we will not release a single prisoner without Parliament's consent. I also want to work with Parliament to expedite that process.

My intention is that those who are released would be serving sentences of under four years. Public safety will always be my priority. I can reassure Parliament that protections are in place so that no one who is serving a sentence for sexual offences or domestic abuse will be released, and a governor veto will also be available. We will engage with victims organisations, local authorities and other key partners in preparing for any release; initial meetings are under way.

This is not a decision that I take lightly and I fully appreciate the concerns that it will raise. However, we must ensure the safety and wellbeing of SPS staff and those who are in their care, and that our prisons continue to function effectively to accommodate those who pose the greatest risk of harm.

However, emergency release will not solve the problem in the longer term. Without more sustainable solutions, there is a risk that we will be faced with the same decision in a few months' time. The second measure, therefore, is to look again at how we manage the release of long-term prisoners, which was last examined in detail almost a decade ago, when Parliament created the Prisoners (Control of Release) (Scotland) Act

2015. That act, in effect, abolished automatic early release for long-term prisoners. The rationale for doing so, which was to move towards a more individualised assessment of readiness for release, is still valid today. However, we also need to take into account the growing prison population, increasing average sentence lengths and the potential benefits of increasing the time that offenders spend on supervised release before the end of their sentence. My intention is to carry out a short consultative exercise over the summer and to return after the recess with a proposal for a bill for Parliament's consideration to change how long-term prisoners are released.

Finally, I intend to introduce secondary legislation to amend the eligibility criteria for home detention curfew and increase the period of time that individuals can spend on release under licence conditions. As that will involve affirmative regulations that will require Parliament's active agreement, I look forward to discussing the matter in detail with the Criminal Justice Committee in due course.

In taking that approach and combining emergency release with longer-term measures, my hope is that we can both mitigate the immediate crisis and start to address the trends that have brought us to this point. I fully appreciate the challenges in what I have set out, and working towards cross-party agreement on any measures to be taken will be critical. As I have said, we will not proceed with any of those measures without parliamentary approval. I have written to the justice spokespeople and invited them to meet me and the chief executive of the SPS, because how we respond to the situation goes beyond the Scottish Government and is rightly a matter for the whole Parliament. We will also publish a briefing paper to ensure that all MSPs have relevant background information.

I am genuinely open to discussing with the Opposition parties what options are available and how best to proceed, but I consider that we have no choice but to act if we are to avoid an unprecedented crisis developing. I will welcome members' views this afternoon. I emphasise once again the need for this Parliament to consider in detail the critical situation that we are facing and to come to an agreed suitable response.

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

**Sharon Dowey (South Scotland) (Con):** I thank the cabinet secretary for an advance copy of



her statement. Recently, the chief executive of the Scottish Prison Service, Teresa Medhurst, confirmed that seven of the country's 15 prisons had declared red status due to severe overcrowding. Scotland's prison officers are struggling to cope under the huge pressure that they face, and the Prison Governors Association has described the situation as a state of "permacrisis" for staff.

The situation has spiralled because the Scottish National Party has failed to revamp the prison estate. The SNP's failures to deliver new prisons on time and on budget have had a damaging impact on prison overcrowding. We urgently need an update on the plans for the prison estate expansion. The Scottish Government is now saying that the way to alleviate the problem is to use powers that it said it never wanted to use and which would be used only in an emergency. It wants to release prisoners who are serving sentences of less than four years.

It is crucial to ensure that individuals who are released from prison do not pose a risk to the public so, if the Government is to go down that path, it must ensure that it is done in a way whereby public safety is not put at risk. Caution must be taken and safety checks must be carried out. This is not the time for the SNP to further its soft-touch approach to justice. The cabinet secretary must be clear with the public about which crimes those criminals were convicted for and how many criminals will be released early. Most important of all, can the cabinet secretary give us her guarantee that at no time will the public be put at risk by the measures?

**Angela Constance:** I thank Ms Dowey for her important questions. It is with great respect that I say that a prison population of 8,348 does not smack of soft justice, nor does it smack of smart justice. All of us in the Parliament needs to ditch our rhetoric, roll up our sleeves and do what is in the best interests of our communities.

Make no mistake about it: what happens in our prisons matters. Our prison system is not the end of the line—most prisoners are released. If our prison officers and staff cannot undertake important rehabilitative work or healthcare work, all that happens is that people are released and risk increases in our communities. At the end of the day, I know that we all want to have less crime, fewer victims and safer communities, but, because we are in a crisis, a critical risk exists and we must focus on the solutions that are needed now.

Ms Dowey spoke very powerfully about the plight of prison officers. I have known and worked with many prison officers. Right now, they need to know that we stand behind them. Every day that they go in to work, they put themselves on the line

for us and the communities that we all seek to serve. They need to know that we are with them and that help is on the way.

Absolutely nothing is more dear to me than public safety, Ms Dowey. I am sure that she is aware of the safeguards that exist on emergency release and that some people will be automatically excluded. The veto that governors will have provides further reassurance, in that he or she can exclude anyone that they believe poses a risk to an individual or, indeed, a group of individuals.

Ms Dowey is right: doing this in a planned, orderly way is imperative. Unlike other Governments, no one will ever be in a position in which they have to drag information out of me. I am being candid and upfront, and I am not sugarcoating anything. I will work collaboratively—we will all need courage—and members have my absolute commitment to leadership on the issue. I will work with all members to support our communities and our prison service.

**Katy Clark (West Scotland) (Lab):** I welcome the cabinet secretary's statement and the approach that she has taken in trying to consult other political parties. Scottish Labour has been concerned about the steep rise in prison populations for some time now. Can the cabinet secretary advise how many prisoners the Government plans to release early and what advice is she receiving on that? Can she guarantee that no violent offenders will be released? Can she also advise what other measures are being considered?

In particular, the cabinet secretary will be aware that Scottish Labour has been calling for the modernisation of electronic monitoring systems, including the use of general packet radio service systems. Can she advise what work is being undertaken to progress better electronic monitoring systems and, indeed, to ensure that there is full compliance when those systems are ordered, given that that has, as we know, been an issue in the past?

**Angela Constance:** I appreciate Ms Clark's contribution to the debate, and she has raised an important point. Although we all understand the well-known drivers that have contributed to the long-term growth in our prison population—indeed, I have published a paper this afternoon that narrates that—the increase of 400 additional prisoners in such a short space of time is unprecedented and was not predicted. It is difficult to get underneath the skin of sudden spikes in the prison population. That does not mean that we will stop investigating it, but that work cannot take place at the expense of what we need to do and the actions that we need to take.

As for the member's question about how many prisoners the Government plans to release under the emergency powers, prisoners serving sentences for sexual offences and domestic violence will not be released. There are other statutory exclusions in the brief that has been published.

On her final point, the modernisation of GPS is important. She might recall from my previous statement to Parliament that we will look at piloting the GPS technology in conjunction with the home detention curfew as part of our work to expand that as a reintegration tool.

**Audrey Nicoll (Aberdeen South and North Kincardine) (SNP):** I welcome the cabinet secretary's statement. The Covid-19 pandemic saw emergency measures to facilitate the early release of prisoners across Scotland, with public and other local services coming together to manage a multi-agency reintegration and resettlement response. Will the cabinet secretary provide assurance that a similarly co-ordinated and managed approach will be taken and that the process will be closely monitored to ensure that it is as seamless and robust as possible?

**Angela Constance:** It is important that we learn the lessons of what worked well during the pandemic, as well as those of what worked less well. We must have a laser-like focus on co-ordination between national and local government—for example, on health, housing, drug and alcohol services, benefits and social work—as well as with third sector groups, and that co-ordination and communication work will continue throughout the planning and operation of any emergency release process.

We will learn the lessons of what worked well, and we will keep a keen eye on where improvements can and must be made. This is a time for us all to pull together; after all, there is no monopoly on wisdom on this.

**Russell Findlay (West Scotland) (Con):** I begin by accepting the cabinet secretary's offer of a meeting to discuss Scotland's prison crisis. It absolutely is a crisis, with severe overcrowding, rampant drug use, no proper rehabilitation and organised crime gangs targeting prison officers in brazen attacks.

As well as freeing up to 500 prisoners early, the cabinet secretary tells us that she is considering another significant measure, which is to bring back the automatic early release of long-term prisoners—that is, those serving more than four years. That is despite a previous pledge from one of the previous First Ministers to scrap it for shorter sentences. This Government is entirely responsible for Scotland's prisons and has been since 2007. I heard the earlier comments about

being candid, so in that spirit, if automatic early release is a foregone conclusion, is the cabinet secretary not better just to tell members that?

**Angela Constance:** I have fairly well-known views on the importance of properly supporting and reintegrating people who are released from prison, particularly those with very complex needs, either as a result of their risks and vulnerabilities or because of drug, alcohol or mental health problems. As a former prison social worker, I take the view that, if we are going to take a more individualised approach to that, some people will need more than six months on a community licence at the end of a long sentence.

I hope that Mr Findlay acknowledges that the tone and tenor of my statement is, first and foremost, about giving the Parliament its place. I will bring forward a consultation, which will take place over the summer. I am being candid—I do not want us to be in a cycle of one episode of emergency release after another. We have to look at solutions that will address the prison population problem in the longer term, as well as other impacts. I am utterly committed to doing so, whether it means improving the alternatives to remand or building confidence in and developing the profile and number of community disposals.

Right now, we need to take quick action, and I have laid out to the Parliament the three actions that I am seeking parliamentary consent for. My views are known—I now want to give the Parliament its place.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** I note that the prison population has risen by 10 per cent since the Bail and Release from Custody (Scotland) Bill was passed exactly a year ago, providing powers over emergency release. During that time—and today in her statement—the cabinet secretary has said that she would not use those powers unless absolutely necessary. What other actions has she taken or considered ahead of using them?

**Angela Constance:** It is almost exactly a year to the day since we were engaged in the stage 2 proceedings on the Bail and Release from Custody (Scotland) Bill, when I was the newly appointed Cabinet Secretary for Justice and Home Affairs. One of the issues that we were debating concerned the powers in and around emergency release.

In the year that has followed, our prison population has went up by 700, and that speaks for itself. As Ms Mackay has said, we have taken a number of other actions. I will not list them all, but we are optimising the use of the home detention curfew—the numbers of those released on that mechanism have increased—and we have taken action to address the use of remand by introducing

electronically monitored bail, expanding bail supervision and enabling courts to take electronically monitored bail into account in sentencing.

Those measures are all important, but we need to do more now, and do it quicker.

**Pauline McNeill (Glasgow) (Lab):** How can Scotland, in the long run, repair its reputation with regard to holding prisoners in humane conditions? Severe overcrowding is impacting on rehabilitation, which is absolutely necessary in reducing offending, and, worryingly, time out of cells is, as the cabinet secretary said in her statement, impacting on access to services. That last point concerns me the most, and I wonder whether she can elaborate on it.

Moreover, will all victims be properly notified of early release cases? How will that be done? Can it be done in enough time to give victims reassurance that there is no risk to their personal safety?

**Angela Constance:** I, too, share concerns about healthcare for prisoners. My work in that regard started when I was Minister for Drugs Policy, working on access to recovery and the implementation of the medication-assisted treatment standards. With Keith Brown, my predecessor in my current post, I established the cross-portfolio ministerial group on prison health and social care.

I know that members might groan at the idea of yet another committee. However, as someone who has been involved in a fair few committees, I want to convey to Parliament that justice and health ministers are working together to such a degree that we are absolutely engaged in one another's portfolios and on the detail of what we need to do to meet the needs of people with mental health problems; to improve treatment for drug and alcohol dependency; to recruit band 5 nurses; and to make the improvements to technology required to improve clinical treatment. A wealth of work is going on in that area.

Nonetheless, I acknowledge that having more people in prison jeopardises all of that good work. We have to address the rise in our prison population, and we must do so in a way that reduces the numbers faster. I take no pleasure in saying that.

On the point about the existing victim notification and victim information schemes, we have planned improvements in that regard and will respond to the independent review of those schemes. I want to ensure that, as well as engaging with parliamentarians, I engage face to face with victims organisations, so that we have in place detailed and exact planning to enable us to move forward with the confidence that we need.

**The Deputy Presiding Officer:** I make a plea at this stage for more succinct questions and answers, as there are still a number of members who would like to pose their questions to the cabinet secretary.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** I, too, welcome the statement and the measures to keep our prisons safe.

What additional supports will be provided to community justice services to support those leaving prison, and what role will those services play?

**Angela Constance:** I know that Fulton MacGregor is a former criminal justice social worker, as I am, and he will be under no illusions that any measures that we take—either in and around emergency release or, in particular, if the Parliament agrees to alter the release arrangements for long-term prisoners—will have an impact on criminal justice social work. As well as engaging with the Convention of Scottish Local Authorities, housing and victims organisations, we will continue to engage with Social Work Scotland, because we need to work with all of those agencies.

I recognise that, although the release of those particular prisoners is not unanticipated, an emergency release will take place quicker for those considered appropriate, which will place additional demands on local services and will require them to be flexible and responsive. I am pleased to advise Parliament of a commitment from my Cabinet colleagues to working across Government on delivering the necessary community planning.

**The Deputy Presiding Officer:** Again, I will need more succinct answers.

**Maggie Chapman (North East Scotland) (Green):** *The Lancet* recently published research that showed that the chances of a former prisoner dying were highest in the week immediately after release, compared with subsequent months. Alcohol and drug-related deaths, followed by suicide, were the main causes of death in the first week post release. What assurances can the cabinet secretary give that, with the measures that she has outlined, appropriate and sufficient resources and support will be available from public and third sector agencies to former prisoners and the communities that receive them, especially in the days and weeks immediately after release?

**Angela Constance:** As I am conscious of not incurring your wrath, Presiding Officer, I will just quickly say to Ms Chapman that she has highlighted a risk time—indeed, any risk will be greater at the time of transition—and that the answer to that issue is planning, planning, planning and planning.

**Jackie Dunbar (Aberdeen Donside) (SNP):** I apologise to the chamber, as I will have to leave the chamber after I have asked my question, and I am grateful to the Presiding Officer for being so accommodating in allowing me to do so.

I am pleased to hear the cabinet secretary say that public safety is a priority. What measures can she provide on the safeguards that will be put in place before anyone is released early?

**Angela Constance:** I have already spoken in detail about the planning that will commence. I realise that it is happening in anticipation of Parliament's approval but, nonetheless, we will have to start it. I have also talked about the automatic statutory exclusions and the governor veto, with which they can refuse to release an otherwise eligible prisoner if they consider that they would pose an immediate risk or harm to a specific individual or group of individuals if released.

Ms Dunbar quoted the chief inspector of prisons, who rightly challenged the Government to have the courage to communicate with people that the instability in our prisons will have an impact on community safety. It is in the profound interests of community safety that we take action.

**Liam McArthur (Orkney Islands) (LD):** Like Katy Clark, I welcome the early and constructive engagement that the cabinet secretary has had with Opposition members.

Prisons have been teetering on the edge for months, if not years, with many routinely running over capacity. At the heart of that issue, at least in part, is the soaring remand population, which is a matter that I have raised with the cabinet secretary many times.

In light of the measures that the cabinet secretary has set out on early release of some offenders and the fact that one third of people on remand have been held in prison for more than 140 days, does she understand why the public might be anxious about releasing convicted criminals early while holding people in prison who have yet to come to trial, and on such a scale? What more can the Government do to encourage an increased uptake of non-custodial disposals?

**Angela Constance:** That is a crucial point. It is to my great frustration that, as our sentenced population has increased, the remand population has increased, too. Normally, the remand population goes down as the sentenced population goes up. However, on any given day, our remand population sits at 1,800-plus, so we will absolutely continue to pursue work on the alternatives to remand.

I take very seriously Liam McArthur's point. As I understand it, the legal status of remand prisoners

prohibits their emergency release, but I will go back and have a look at the matter.

**Collette Stevenson (East Kilbride) (SNP):** With the United Kingdom nations having the highest levels of prison populations in Europe, what further actions need to be taken to get the proper balance of community justice and imprisonment?

**Angela Constance:** Investing, as we are, in community justice is absolutely core to our overall response. We need to follow the evidence, which tells us that the reconviction rate for someone on a robust community payback order is much lower than it is for someone who has served a short-term sentence. Therefore, we need to continue to raise the profile of and provide investment in and support for community justice services. Notwithstanding the importance of that work, which will help us in the longer term, we face an immediate challenge right now.

**The Deputy Presiding Officer:** I can squeeze in Brian Whittle, if I can have a succinct question and a succinct answer.

**Brian Whittle (South Scotland) (Con):** As always, Deputy Presiding Officer.

The cabinet secretary has stated that the cause of the sudden increase is unclear and that the Scottish Prison Service's ability to deliver rehabilitative regimes has been severely curtailed. How many of the new prisoners in the recent spike are repeat offenders? What action will she take to ensure that hundreds of prisoners, who might now be released early, do not fall back into reoffending and return to prison?

**Angela Constance:** For the sake of brevity, I will say that there is well-established and published research speaking to the reconviction rates of particular types of prisoners, and there is also research that speaks to the reconviction rates of short-term, long-term and life-sentence prisoners. I will not infuriate the Presiding Officer any further by repeating that information at length.

Understanding the spikes is important, but we also have to understand that spikes in population are hard to predict. That means that we need to act, and we need to act now.

**The Deputy Presiding Officer:** That concludes the ministerial statement on Scotland's prison population. Before we move on to the next item of business, there will be a short pause to allow the front-bench teams to change positions.

## Horizon Information Technology Prosecutions

**The Deputy Presiding Officer (Liam McArthur):** The next item of business is a statement by Dorothy Bain KC on Horizon information technology prosecutions. The Lord Advocate will take questions at the end of her statement, so there should be no interventions or interruptions.

15:03

**The Lord Advocate (Rt Hon Dorothy Bain KC):** I welcome the opportunity to address Parliament to provide an update on the steps that have been taken by those working in the criminal justice system to address prosecutions in Scotland involving evidence from the Post Office Horizon IT system. In my previous statement, I confirmed that the Crown Office and Procurator Fiscal Service and I are committed to addressing all miscarriages of justice. To that end, I made it clear that work has been under way in Scotland to address that issue since 2020. That has included collaborating with the Scottish Criminal Cases Review Commission to assist in identifying and referring impacted Scottish cases before the High Court of Justiciary for review.

Notwithstanding the practical challenges that have been faced in identifying and assessing the potentially impacted cases, because of the passage of time and the limited availability of records, I understand that the Scottish Criminal Cases Review Commission has made efforts to write to all individuals in Scotland it considered might have been affected by the issues and has invited them to apply for review of their case. I am pleased that individuals have come forward. So far, six convictions have been quashed by the appeal court, two appeals are currently before the court and 10 cases are being reviewed by the commission.

On 30 April 2024, Scotland's appeal court issued an opinion regarding the now-concluded cases. That judgment endorsed the approach taken by both the SCCRC and the Crown in assessing the different circumstances in which Horizon evidence played a role in the original cases and in concluding that those appeals should succeed.

In my previous statement, I made it clear that, as Lord Advocate, I could seek to address miscarriages of justice only within the legal framework that is available to me and that for that reason—and despite what some have wrongly suggested—it is not possible for me to achieve mass exoneration of all those who have been impacted. I make it clear that that was not a

comment on whether I support the concept of mass exoneration. As Lord Advocate, I have a responsibility to protect the administration of justice in Scotland and to uphold the rule of law. I can use only the tools that are available to me, as I have done to date.

Members will recall that I committed to reviewing the Post Office's continuing status as a specialist reporting agency. I can now confirm that, because of its fundamental and sustained failures in connection with Horizon cases in Scotland, I have decided that Post Office Ltd is not fit to be a specialist reporting agency. It is therefore no longer able to investigate and report criminal allegations directly to the Crown and should now instead report any allegations of criminality to Police Scotland for investigation. I can also advise that work is under way to strengthen the guidance and safeguards that exist to ensure that all specialist reporting agencies abide by the essential duties of disclosure and candour in reporting cases for prosecution.

On Tuesday this week, the Scottish Government introduced the Post Office (Horizon System) Offences (Scotland) Bill. As the principal legal adviser to the Scottish Government, I advise the Government on the legislative competence of any bills that it seeks to introduce. I exercise my legal adviser functions objectively and independently. Although ministers share collective responsibility, the Cabinet Secretary for Justice and Home Affairs has ministerial responsibility for that legislation and it will be for her to set out the Scottish Government position.

I will now address questions that have been posed in recent weeks regarding the actions that the Crown took in response to concerns that were raised in 2013 about the integrity of the Horizon system. As I previously explained, at no time did the Post Office disclose to the Crown the true nature and extent of the issues with its Horizon system. Reference has been made in the chamber to the findings in the interim report by the independent accountancy firm, Second Sight, which was published in July 2013. Second Sight identified two instances in which defects or bugs in the Horizon online system had affected 76 branches across the United Kingdom, but it concluded that there was

"no evidence of system wide problems with the Horizon software".

Those findings were endorsed in the House of Commons by the relevant minister shortly after the report's publication.

Crown Office officials were given assurances by the Post Office that those isolated bugs did not affect the small number of potentially impacted cases that had been reported to the Crown. It was

also explained that those cases had been reviewed by the Post Office in light of the report and that no concerns had been raised. Notwithstanding those assurances from the Post Office, Crown Office officials, noting that the report recommended further interrogation of the system, requested that the Post Office obtain further expert evidence to support the integrity of the system.

As I explained previously, while that was awaited, Scottish prosecutors were expected to carefully consider any Post Office case on its specific facts and circumstances. When concerns regarding Horizon arose, prosecutors were advised to suspend prosecutions and await further expert evidence.

In 2015, because of the Post Office's failure to provide further evidence to support the system, cases that relied on evidence from the Horizon system were to be discontinued. The Crown is reviewing its records to identify the cases that may have been affected by those failures in disclosure by the Post Office.

Four cases have been identified that were prosecuted after the meeting in 2013 and resulted in a conviction. Records suggest that those four cases involved Horizon evidence, admissions by an accused and a plea of guilty in circumstances where there was independent legal representation for the accused. Those cases had not been drawn to the Crown's attention by the Post Office as cases of concern that necessitated further examination. All four of those cases have been made known to the commission, and I am aware that one at least is under review.

However, 11 cases have been identified in which prosecutors decided to suspend consideration of proceedings and thereafter take no further action. Those decisions were a direct result of their concerns about the accuracy of the Horizon system and were consistent with the instruction to prosecutors to adopt a cautious approach. That limited the extent of the harm that the Horizon IT system may have otherwise caused.

It has been suggested, with the benefit of hindsight, that the Crown should have been more suspicious of the Post Office and should have conducted a review of convictions involving Horizon. However, the state of knowledge as it then was is not what it is now. The Post Office, its lawyers and, indeed, UK Government ministers continued to support the Horizon system during the 2013 to 2015 period, and beyond. Some of the evidence that is before the on-going Post Office inquiry suggests worrying levels of deliberate and sustained concealment and deception used by the Post Office during that period. Unfortunately, it was only after the English litigation in 2019 that

the true nature, extent and depth of the problems with Horizon were revealed.

Notwithstanding that, I am committed to reflecting on whether anything could have been done differently by Scottish prosecutors. In that regard, I await with interest the outcome of the UK Post Office IT inquiry, and I will continue to consider whether any lessons require to be learned.

It is important to remember that at the heart of the issue are individuals who were wrongly convicted of a crime that they did not commit. Next week, Parliament will debate legislation that is designed to address this issue. The opportunity for debate is a development that I welcome, as the merits of the Scottish Government's bill can be considered and debated by you, the parliamentarians who are elected to do so.

**The Deputy Presiding Officer:** The Lord Advocate will take questions on the issues arising from her statement. I intend to allow around 20 minutes for that, after which we will move on to the next item of business. I encourage members who wish to ask a question to press their request-to-speak buttons, if they have not already done so.

**Russell Findlay (West Scotland) (Con):** I thank the Lord Advocate for advance sight of her statement. In January, she told Parliament:

"This miscarriage of justice is truly exceptional—nothing similar has ever been seen before. Its facts and circumstances are unique".—[*Official Report*, 16 January 2024; c 16.]

I whole-heartedly agree, which is why my party has made repeated attempts to have the head of Scotland's independent prosecution service return here. I am grateful that she has now decided to do so.

In her statement, the Lord Advocate said that she had not previously opposed mass exoneration, which the bill proposes. However, that was the impression given by her statement in January, so I ask her to use this opportunity to be clear about whether she agrees with her Cabinet colleagues that mass exoneration is the right thing to do. My party believes that it is the right thing to do.

It is also regrettable that the Scottish National Party has sought to turn the matter into yet another excuse to pick a constitutional fight with UK ministers. In its own words, the Scottish Government now recognises the need for stand-alone Scottish legislation.

It is also regrettable that the Government now suggests that the Scottish bill can be passed only after the UK law has passed. I urge the Scottish Government to have the confidence in this Parliament to commit to passing the legislation

before summer. We have the power to do so. I ask the Lord Advocate whether she agrees.

I previously asked the Lord Advocate whether the former Lord Advocate Frank Mulholland could come to Parliament. I ask again: should her predecessor come to Parliament, and has she spoken with him about Horizon?

**The Lord Advocate:** I will begin by addressing the bill that is before the Parliament. The Government of which I am a member has introduced a bill that reflects the Government's position. Like all ministers, I share that collective position. In my statement and when I answered questions here in January, I addressed the proposition that I could use my authority to achieve a blanket exoneration through the courts, and I explained why it would not be possible for me to do that. Those comments have been taken out of context and held to show that I am opposed to a legislative approach to addressing miscarriages of justice. As Lord Advocate, I exercise my retained functions, including decisions that are taken in my capacity as head of the systems of criminal prosecution and investigation of deaths in Scotland independently of other ministers.

In relation to legislation, my role as a law officer is to certify that Government legislation is within the Parliament's legislative competence, as will be clear from the fact that the Government has introduced the Post Office (Horizon System) Offences (Scotland) Bill and that I have provided that certification.

I have not discussed these matters with Lord Mulholland but, from the material that is available to me and from my understanding of what happened in the background, I think that at no stage was he involved in any matter to do with Horizon cases.

On the question of my attendance in Parliament or my wishing to come here or not, I have made it endlessly clear that I am prepared to come to the Parliament to answer questions about the functions that I undertake. I take very seriously my accountability to the Parliament for the exercise of my functions as the head of the system of prosecution. My presence today demonstrates that. I have been candid about the Crown's actions. I am absolutely committed to transparency to retain the public's confidence in the Scottish prosecution system.

**The Deputy Presiding Officer:** Thank you, Lord Advocate. We will have to move on. There is a lot of interest in the issue, as members will appreciate. Questions and responses will need to be as brief as they can be.

**Pauline McNeill (Glasgow) (Lab):** I thank the Lord Advocate for coming to the Parliament and

for the full and frank responses that she has given so far.

It is clear from the Post Office Horizon inquiry that senior Post Office officials came to Scotland in 2013 because they were concerned that procurators fiscal were, rightly, questioning the reliability of the Horizon system and because of the recommendation by procurators fiscal at the time that all cases based on the Horizon system should be stopped. After that meeting, the policy changed to one based on considering case by case. Why were Crown Office officials satisfied to change the policy at the time, having asked for further evidence to support the integrity of the Horizon system but not yet having it?

I thank the Lord Advocate for her letter to me this week. In it, she notes that, regrettably, four cases have been identified that were prosecuted after that meeting in 2013 and that resulted in convictions, on the basis of admissions or pleas of guilt. As we know, however, many sub-postmasters pled guilty to avoid jail. We should have all the factors fully explained so that we can learn lessons.

**The Deputy Presiding Officer:** We need a question.

**Pauline McNeill:** After 2015, why did the Crown Office not apply its on-going duty of disclosure to all the people who had been convicted using Horizon evidence? No cases were revisited and no convicted postmasters were written to until well after—

**The Deputy Presiding Officer:** Thank you, Ms McNeill. I call the Lord Advocate.

**The Lord Advocate:** As I have said, the litigation in England and Wales in 2019 was a significant turning point, as was the decision in the Hamilton case in 2021. It was at that point that the true extent of the problems with the Horizon system was fully known. Up until that point, the Post Office maintained its position and continued to defend the Horizon system. Work has been under way by the Crown in Scotland and the Scottish Criminal Cases Review Commission for four years now. Since 2020, the Crown has worked with the Scottish Criminal Cases Review Commission and other agencies to identify affected cases and the steps by which we can correct those injustices.

The passage of time is recognised, but the significant turning point was 2019, rather than 2015, as is clear from the litigation and the reported cases that have been made available publicly since that time.

**Fergus Ewing (Inverness and Nairn) (SNP):** Some crimes that might have been committed by sub-postmasters and sub-postmistresses, such as

benefit fraud or cheque fraud, probably have nothing to do with Horizon whatsoever, so those convictions should not be quashed. However, I will ask the Lord Advocate to answer a question on an issue that has been troubling me and, I think, others since her statement to the Parliament in January.

In her statement, the Lord Advocate indicated that, in her view, not all Horizon cases involved miscarriages of justice. However, when Horizon and the associated Fujitsu software were part of the chain of evidence that led to a conviction, surely such evidence must be utterly tainted and discredited. Secondly, in relation to sub-postmasters who pled guilty to such crimes, I believe that it has been conclusively shown in the evidence to the Wyn Williams inquiry that some such confessions and guilty pleas were extracted by improper pressure exerted by the Post Office. Can the Lord Advocate provide a full explanation of that, please?

**The Lord Advocate:** A very general definition of “miscarriage of justice” is a conviction wrongly returned against an innocent person. In some cases, it has been shown that Horizon-identified shortfalls were correctly identified shortfalls. That was demonstrated by an admission of guilt, which included an explanation of why the funds were taken and what was done with them and an independent verification of the use of those funds in the way described, with no suggestion or claim being made that the Horizon identified shortfall was inaccurate. In any such case, there can be no suggestion of a miscarriage of justice.

In relation to cases in which there might have been a miscarriage of justice, since I made my statement to the Parliament in January, the Lord Justice Clerk, the second most senior judge in Scotland, issued an opinion of the appeal court on 30 April 2024. The opinion advised that the court agreed with the Crown that the trial or the plea in any case in which Horizon evidence was essential to conviction, whether as primary evidence or as essential corroboration, cannot be considered to have been fair and has resulted in a miscarriage of justice. That is the approach that the Crown was taking and continues to take.

The point about guilty pleas is important, because the vast majority of the cases that are coming before the appeal court and the ones that we have considered are cases in which the accused has pled guilty, there has been an admission of guilt and the accused individual was independently legally represented at the time. A guilty plea in those circumstances requires careful consideration and the input of the appeal court in order to determine whether to quash a conviction.

The circumstances of admissions of guilt and guilty pleas are carefully considered in the round

when concerns in relation to whether there has been a miscarriage of justice are looked at.

**The Deputy Presiding Officer:** The Parliament will be aware that it allocated 30 minutes for this item of business. I am prepared to exercise a degree of leeway, but a further 11 members wish to ask questions. We now have nine minutes to get through those. I want to get in everybody who wants to ask a question before we move on to the next item of business, but the questions will need to be brief, as will the responses, Lord Advocate.

**Murdo Fraser (Mid Scotland and Fife) (Con):** The Lord Advocate said in her statement that 11 cases have been identified in which prosecutors decided to suspend consideration of proceedings and take no action as a direct result of their concerns about the accuracy of the Horizon system. If no fewer than 11 individual fiscals were concerned about the accuracy of the Horizon system, why was that not ringing alarm bells at the top of the Crown Office and Procurator Fiscal Service? Why was the decision to cease all further prosecution proceedings not taken at that point?

**The Lord Advocate:** I have already explained that the extent to which the Horizon system was fundamentally flawed was not identified until 2019, and thereafter in 2020 when the decisions of the English Court of Appeal and the decision in the Bates case were returned. That was the starting point at which everybody became aware of the fundamental difficulties with the system. When prosecutors became aware that bugs in the system had been mentioned in the Second Sight report, they looked at the report, asked the Post Office about it and were given absolute assurance that there was nothing wrong with the system or with any of the Scottish cases that had been prosecuted thus far. There was therefore no basis, after the decisions were taken not to prosecute the 11 cases but to go forward with the four, for a full review to be done of all that had gone before. That is consistent with the way in which the courts in England and Wales have approached the matter to date.

**Evelyn Tweed (Stirling) (SNP):** From what we have heard during the public inquiry, it would appear that, over the years, people at the top of the Post Office have provided misleading information on the Horizon cases. Does the Lord Advocate share my concern in that regard? What is her response to the evidence that has come out of the public inquiry?

**The Lord Advocate:** I am grateful for the question and, of course, share the member's concern. The Post Office was a respected and trusted agency but, through its actions, many innocent people have suffered and had their lives ruined. While the public inquiry is on-going and appeal cases remain live in Scotland, I am



obviously limited in what I am able to say. However, I am deeply troubled and concerned by the evidence that the inquiry has heard. The on-going inquiry requires to fulfil its remit. I await its outcome with interest. Any criminality in Scotland by any individuals in the Post Office will be considered through the normal process of reporting. As members will know, the issue affected the entire United Kingdom. I am therefore committed to working closely with other agencies across the UK on that front.

**Katy Clark (West Scotland) (Lab):** Until 2015, I was a member of the UK Parliament and a member of the select committee that took evidence in that year. However, like many other MPs, I was aware of the serious concerns that had been raised about the Horizon convictions prior to then. Does the Lord Advocate not accept that it was clear from at least 2013 that it was unsafe to prosecute those cases and that any convictions were unreliable? Has the Lord Advocate given thought to why the Crown Office wished to accept what the Post Office said and to prosecute so many people who had always been law abiding, when there was so much concern that there had been miscarriages of justice?

**The Lord Advocate:** I recognise the question whether prosecutors could have done more earlier, but that proposition relies on the benefit of hindsight. It is a professional responsibility of prosecutors to reflect on how they have handled cases, to help to ensure that they do better in the future. The issues surrounding Horizon have now been the subject of detailed scrutiny in the Crown Office. At present, nothing has been identified that shows that prosecutors should have dealt with matters differently. A public inquiry is under way, and the appeal court in Scotland has cases under consideration. If anything identified in those processes indicates that things could have been done differently, we will, of course, pay great attention to that.

**Ruth Maguire (Cunninghame South) (SNP):** Will the Lord Advocate expand on the reasons for the Crown Office and Procurator Fiscal Service's decision to stop relying on Horizon-related evidence only from 2015? What had been expected from, but not supplied by, the Post Office at that time?

**The Lord Advocate:** In 2013, the Crown Office was assured by the Post Office that Scottish cases were not affected and that Horizon continued to be robust. Notwithstanding those assurances, prosecutors requested that the Post Office provide further evidence to support what it was saying. While prosecutors awaited those instructions being carried out, they adopted a cautious approach to cases that relied on Horizon evidence.

In 2015, the Post Office confirmed that it was not in a position to provide the evidence that the Crown Office had requested. On that basis, in the absence of independent evidence to demonstrate that Horizon was, in fact, safe, a decision was made to no longer rely on Horizon evidence.

**Maggie Chapman (North East Scotland) (Green):** I thank the Lord Advocate for her statement. She spoke about convictions that have already been quashed by the High Court and about two that are currently before the court. However, we do not know about any cases in which convictions might have been upheld by the High Court or in which the High Court refused to give leave to appeal. If such cases exist, they would be excluded from the bill as it is currently drafted. What assurances can the Lord Advocate provide that such cases that have already been considered by the High Court will be given a fair hearing, given that more and more information is coming to light through various routes, including via the public inquiry, which is on-going?

**The Lord Advocate:** There have been no appeals in relation to cases refused by the court of appeal in Scotland. It will perhaps be of some comfort to Ms Chapman to hear that.

In so far as the on-going process is concerned, the court of appeal is looking at those cases individually and with great care. It should be made clear to members in the chamber that the court of appeal in Scotland is taking matters extremely seriously. For some time now, there has been a dedicated bench that is listening to the cases, having many procedural hearings and being advised of how matters are progressing. That dedicated bench has set down how it considers that cases should be presented and argued, and how, in certain circumstances, appeals should be granted.

There is great comfort to be taken from the facts that there have been no appeals refused in Scotland, that we have a dedicated bench that is looking at these matters and that all the appeals that have thus far been taken have been granted by the court on the basis of the Crown's concession. It is clear that the same process will be delivered for the two outstanding cases.

**Clare Adamson (Motherwell and Wishaw) (SNP):** In her statement, the Lord Advocate said that the Scottish Criminal Cases Review Commission has been involved in identifying those who may have been wrongly convicted and that letters have been sent out. How many letters were issued and how many responses have been received? Can the Lord Advocate envisage any other mechanism by which the courts could proactively reach out and encourage people to come forward, rather than the onus being on the

wronged parties, who are very sceptical and very scared, to do so?

**The Lord Advocate:** I think that that question was asked of me previously, when I gave my first Post Office statement in the chamber. There is a distinction between the role of the Crown Office and Procurator Fiscal Service and the role of the Scottish Criminal Cases Review Commission in these matters. They have very distinct roles to carry out.

With regard to the number of letters that the commission has issued and the uptake of those, and the decisions that the commission has made to refer cases, I ask that that question be referred to the Scottish Criminal Cases Review Commission. My understanding is that, in every single case that has been referred to the commission, the commission has written to the individual or to their family. For precise detail and to be absolutely accurate, however, that question should be directed to the commission.

With regard to anything else that could be done in order to assist and encourage people to come forward, I simply restate what I have said previously. If you consider that you are a victim of a miscarriage of justice in these matters, you should come forward, and you will be supported and given assistance. You will be supported by the Scottish Criminal Cases Review Commission and we will do all that we can to bring the matter to the courts, if it is for the courts, or the matter will thereafter be dealt with under the legislation, if it is passed by the democratically elected parliamentarians who sit in the chamber today.

**Alex Cole-Hamilton (Edinburgh Western) (LD):** I am grateful for the clarity as to this Parliament's role in making things right. We should move forward with haste. It is right that the Post Office has now been stripped of its status as a specialist reporting agency. It deceived everyone at every turn, laying down a smokescreen of lies long after it realised that it was at fault. People paid for that with their livelihoods and, in some cases, their lives. Can the Lord Advocate advise us as to what lessons have been learned and what safeguards have been employed in the specialist reporting agencies that remain and in the COPFS, which receives their reports, to protect against similar unsafe prosecutions in the future?

**The Lord Advocate:** The question is about the specialist reporting agencies and what can be done to ensure that they meet the legal framework within which they operate, which includes a duty of revelation and a duty of disclosure. Those obligations are placed on the Crown in Scotland, and the specialist reporting agencies should understand that they need to take them very seriously. There was plainly a complete abdication of responsibility by the Post Office in relation to the

special status that it was given, which resulted in the terrible consequences of the cases.

Work has been on-going in the Crown Office to revisit the advice, support and direction that are given to the specialist reporting agencies and to tell them again about the law that they need to operate within and their duties of revelation and disclosure. We have reflected on the issues and we are not beyond reflection in looking at them. We continue to revisit how there could be such a complete and utter abdication of the legal rules that apply to specialist reporting agencies as came about in this particular case.

**Keith Brown (Clackmannanshire and Dunblane) (SNP):** The Lord Advocate stated that the Post Office and the UK Government, in her words,

"continued to support the Horizon system during the 2013 to 2015 period, and beyond"

and that there were

"worrying levels of deliberate and sustained concealment and deception ... during this period."

Can the Lord Advocate say whether that might present a liability for the Post Office and the UK Government separately from any agreed compensation scheme? Given that the concealment was "deliberate and sustained" and that it can reasonably be said to have led to the imprisonment, the traumatisation and even the suicide of some of the victims of the disgraceful deception, could it result in criminal proceedings against those who were responsible for that deception?

**The Lord Advocate:** I am not in a position to answer Mr Brown's question today. We really need to await the outcome of the public inquiry, which has been on-going for many years now, and we would need to understand what the outcome would be of any particular investigation that the UK authorities are involved in looking at. I have said that it should be a UK-wide investigation. The profound issues that concern us today are ones that concern everybody across the United Kingdom. I am not in a position to answer the specific question about criminal or civil liability today.

**Jamie Greene (West Scotland) (Con):** Of course, the Post Office is guilty of the most egregious failures in this whole sorry saga, but let us not forget that it was the Crown in Scotland that prosecuted people here. Given that fact, and particularly in the absence of Police Scotland's involvement in any evidence gathering or assisting the Crown's prosecution, why did the Crown take or seek no evidence contrary to that which was offered by the Post Office? Why did technical evidence that ultimately led to prosecutions go

unchallenged? Why was it simply taken at face value, given the disastrous consequences of that?

**The Lord Advocate:** I have already explained that Post Office Ltd had been a specialist reporting agency in Scotland for a significant period of time—for many decades. It was a highly respected institution, in respect of which it was given UK-wide recognition. The Crown Office is not an investigating agency. It relies on specialist reporting agencies to report cases under a duty of disclosure and revelation. The Crown was entitled to take at face value the evidence that was submitted by the Post Office and the assurances that were repeatedly given to the Crown as to the situation with Horizon evidence.

I have said before that, in 2013, the Crown Office was assured by the Post Office's legal team, which included barristers and professional lawyers working with the Post Office's internal legal team, that it had looked at all the Scottish cases and that there was no difficulty with any of them.

**Michael Marra (North East Scotland) (Lab):** I am glad that the Lord Advocate has begun to change her tune slightly on the position regarding specialist reporting agencies. On her appearance in the chamber on 16 January, she insisted that the Crown Office must be able to continue to trust without question the evidence of all such agencies above the citizens of Scotland armed with readily available evidence as to the lack of reliability of those reporting agencies' evidence. Can the Parliament have faith that a letter reminding other agencies of their duties is sufficient to prevent a repeat of the circumstances in which the voice of the establishment automatically trumped the voice of citizens?

**The Lord Advocate:** I did not say what Mr Marra has said that I said. I refute that completely. However, I have repeatedly said this:

"I am deeply troubled by what has occurred".—[*Official Report*, 16 January 2024; c 14.]

I hope that the statements that I have made give reassurance that prosecutors have never sought convictions in the knowledge that Horizon was unreliable. All prosecutors were acting in good faith and on the basis of information that was supplied to them by the Post Office.

I know that innocent people have suffered, that people were convicted when they should not have been and that people were forced to live for years with injustice. The responsibility for that lies with the Post Office and its repeated failures. However, I have previously apologised as head of the system for the prosecution of crime—the Post Office is part of that system in Scotland—to the people who have suffered as a result of the scandal.

I continue to expect specialist reporting agencies, which are given the confidence of those appointments by the Crown in Scotland, to meet their legal obligations in relation to duties of disclosure and revelation. I explained earlier that we have revisited and reflected on the need to provide further direction to and support for specialist reporting agencies and to remind them of what the law requires them to do—if, indeed, they require to be reminded.

**Craig Hoy (South Scotland) (Con):** Speaking in the chamber in January, the Lord Advocate, without qualification, said:

"not every case involving Horizon evidence will be a miscarriage of justice, and each case must be considered carefully and with regard to the law." —[*Official Report*, 16 January 2024; c 14.]

In what way can that very clear statement be taken out of context?

**The Lord Advocate:** I did say that, and that is absolutely right. As Lord Advocate, with ministerial responsibility for the Crown Office and the prosecution service, I was explaining what I could do in the context of the available mechanisms. I could not give a blanket exoneration through the mechanisms of law that are available, and I could only explain what I could do, in conjunction with the Scottish Criminal Cases Review Commission and the Court of Appeal, to remedy any miscarriage of justice. That is what I explained. The explanation is completely right and is not out of context, and I never, at any point, made any comment on the proposed legislative option that is now before the Parliament.

It is open to us to understand that we can deal with miscarriages of justice through our existing court system. That is the view that has been expressed by many eminent members of the legal profession, including the former Lord Chief Justice of England and Wales in the recent debate in the House of Lords.

However, there are other options, such as legislation, and it is for the Government and the Parliament to develop the policy to be implemented. The Lord Advocate does not offer a view on policy, nor do they have a vote. I am a law officer; it is not part of my function. It is for this Parliament of democratically elected members to choose between the available options, and that is what they are being asked to do.

## **Aggregates Tax and Devolved Taxes Administration (Scotland) Bill: Stage 1**

**The Deputy Presiding Officer (Liam McArthur):** The next item of business is a debate on motion S6M-13221, in the name of Tom Arthur, on the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill at stage 1. I invite members who wish to participate in the debate to press their request-to-speak button.

15:44

**The Minister for Employment and Investment (Tom Arthur):** The Aggregates Tax and Devolved Taxes Administration (Scotland) Bill provides for the key elements of a new devolved tax on the commercial exploitation of aggregates in Scotland, which will replace the United Kingdom aggregates levy when it is introduced. It reflects an all-party recommendation of the Smith commission, and draws on the powers that are provided in the Scotland Act 2016. The bill's proposals will also support effective and efficient collection of all devolved taxes by Revenue Scotland.

I thank the Finance and Public Administration Committee for its detailed scrutiny of the bill and its stage 1 report. I am pleased that the committee supports the general principles of the bill.

I also take this opportunity to thank everyone who gave evidence during the stage 1 process, and the many stakeholders who have supported the development of the legislation thus far. The bill has been drafted with the help of significant expert feedback and has been informed by a programme of quarry visits, meetings with aggregates producers and businesses that are focused on production of recycled materials. I am keen to maintain positive engagement as we move forward and prepare for the future operation of the Scottish aggregates tax. In particular, I note that the expert advisory group that was convened specifically to provide advice on the bill will continue to be in place.

Before I address the committee's report, I want to acknowledge the important contribution that aggregates make to the Scottish economy, and to reflect briefly on the different types of aggregates.

**Fergus Ewing (Inverness and Nairn) (SNP):** I welcome the minister's assurance on continued engagement. I believe that the industry has asked for a mineral products forum to be established—perhaps in statute and to be statutorily agreed to. That would be an excellent idea that would ensure that, going forward, there is stability, continuity and collaborative working. Will the minister consider the suggestion sympathetically?

**Tom Arthur:** I am happy to give the assurance that ministers will seriously consider all constructive suggestions, such as the one that Mr Ewing has offered. I record my thanks to Mr Ewing for his constructive engagement on the bill at an early stage.

Aggregates provide materials for housing, energy infrastructure, construction and road building. The aggregates industry supports employment across Scotland, including in rural and remote areas. Most aggregates that are currently used in Scotland are primary aggregates—crushed rock, gravel and sand—which are produced from naturally occurring mineral deposits and are then used for the first time. Those vital aggregates are produced in quarries the length and breadth of Scotland.

Secondary aggregates are by-products of industrial and construction processes, and recycled aggregates are materials that have been previously used in construction. Thanks to the industry's on-going innovation, the range and quality of recycled materials is continuously improving.

To encourage the minimum necessary exploitation of primary aggregates, to maximise the use of secondary and recycled aggregates, and to incentivise innovation and the development of alternative materials, the bill provides for a tax on commercial exploitation of primary aggregates in Scotland. Combined with other measures, such as the Scottish landfill tax, that will support our wider ambitions to deliver a fair, green and growing economy and, more specifically, our ambitions for the circular economy.

**Daniel Johnson (Edinburgh Southern) (Lab):** The minister has made an important point about the need to improve the proportion of secondary and recycled aggregates. Does he agree that we need to look at non-fiscal measures—such as the use of standards for construction, road building and other activities—to encourage that, and does he agree that we should ensure that those practices keep pace with technology? We should not just use fiscal measures.

**Tom Arthur:** I absolutely agree. Mr Johnson has made an important point. As I highlighted at committee, the aggregates tax is just one of a suite of tools that will be available to ministers and Parliament to help to promote a circular economy. I agree with Mr Johnson that the proposed tax has to be situated within the broader suite of regulatory and non-regulatory interventions, in order to support our ambitions.

I turn now to the specifics of the committee's stage 1 report. Concerns were raised about the lack of data on the impact of the UK aggregates levy and the challenge that that presents for

assessing the behavioural impact. In particular, there are no disaggregated His Majesty's Revenue and Customs data available for the UK aggregates levy at Scotland or sub-Scotland level. With that in mind, the approach that is taken in the bill—in particular, the decision to align with the UK aggregates levy—is pragmatic and sensible. It considers the views that I have heard throughout our consultation and engagement process, and the data limitations that the committee highlights. The Scottish Government is also working closely with Revenue Scotland and the expert advisory group to consider opportunities to improve the evidence base.

The committee also asked whether there is a potential tension between the desire for continuity and effective incentivisation of the use of recycled and secondary aggregates. The approach that is set out in the bill will ensure that there is a price signal to encourage use of recycled, secondary and alternative aggregates, while also ensuring stability and certainty for taxpayers.

The bill also allows for the tax to evolve over time, informed by the collection of Scotland-specific data and by increased understanding of the tax and its impacts on the aggregates industry in Scotland.

I am conscious that there is strong interest in the future tax rate. The proposed introduction date for the tax is two years away and decisions on any tax rate will be set out as part of the Scottish budget process, but I recognise the desire for clarity on that matter and am mindful of the importance of stability and certainty for taxpayers, as we introduce a new tax. We will therefore work closely with stakeholders to inform decisions on future tax rate policy.

Separately, the committee report noted the importance of cross-border movements of aggregates—in particular, the interaction between the UK aggregates levy and the new Scottish tax. Extensive consideration, informed by stakeholder engagement, has been given to what would be the appropriate approach to accounting for cross-border movements. The approach that is set out in the bill is the most administratively straightforward one for taxpayers and businesses more widely.

The committee also reported concerns from taxpayers about the current levels of compliance with the UK aggregates levy regime. On that, our focus is on ensuring that the arrangements for the Scottish aggregates tax work as intended and that there is a level playing field for all. The bill therefore includes a distinctive provision that allows for the charging of a tax on those who purchase taxable aggregates from unregistered suppliers.

The tax will also provide an opportunity to demonstrate the operational benefits of tax devolution, thereby making best use of Revenue Scotland's operational expertise.

The second part of the bill includes a small number of provisions to further optimise the administration of all devolved taxes. I know that stakeholders have raised concerns about the lack of consultation on those provisions; however, the provisions have been informed by detailed engagement with Revenue Scotland and either are minor points of clarification, create consistency with powers already applying in Scotland to UK taxes, or are enabling powers through which a full public consultation will be conducted in advance of any secondary legislation.

Part 2 includes two enabling powers that will allow Scottish ministers to make regulations about how Revenue Scotland communicates with taxpayers and how it will make use of automation. The aim of those powers is to future proof our tax legislation and ensure that Scotland can continue making use of advancements in its tax system.

I am ever conscious of the need to safeguard taxpayers: my response to the stage 1 report sets out a number of ways in which taxpayers' interests will be protected. I am sure that that will be discussed in more detail during the debate.

Part 2 also includes provisions that will allow Revenue Scotland to set off undisputed amounts of taxpayer debits against the same taxpayer's credits. That provision will aid Revenue Scotland's ability to collect taxes efficiently while not disadvantaging the taxpayer. Once again, I am happy to discuss the safeguards that will be available to taxpayers in that regard.

Overall, the bill's provisions will allow us to create and maintain a modern, efficient and effective tax system that is fit for a modern Scotland. The bill is just one element of the Scottish Government's ambitious programme to drive progress towards a circular economy and net zero, but it is a key element.

The bill delivers on a cross-party agreement to devolve further tax-raising powers to the Scottish Parliament. Its proposals are the result of extensive stakeholder engagement: ministers are committed to continuing that engagement as the bill progresses through Parliament.

I look forward to our discussion and debate and ask members to support the bill at decision time.

I move,

That the Parliament agrees to the general principles of the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill.

**The Deputy Presiding Officer:** I call Liz Smith to speak on behalf of the Finance and Public Administration Committee.

15:54

**Liz Smith (Mid Scotland and Fife) (Con):** First, I extend the apologies of our convener, Kenny Gibson, who is unable to be present. He has given me quite a lot of ideas for how to reflect our deliberations.

As part of our scrutiny, the committee ran a call for written views, which received 10 responses. We took oral evidence from stakeholders at three meetings throughout March, and we visited an aggregates recycling facility in Livingston. We are grateful to everybody who took the time to share their insights and help inform our consideration of the bill.

I will highlight some of the key issues that were raised in the committee's report on the bill, which we published on 29 April, and I will respond to a few of the comments in the Scottish Government's response.

Part 1 of the bill introduces the Scottish aggregates tax, which our report describes as

"a tax on the commercial exploitation of primary aggregates, to be administered by Revenue Scotland."

The proposed SAT retains the fundamental structure of the UK aggregates levy, with the stated aim of offering

"a degree of continuity for taxpayers ... while also ensuring that the devolved tax can evolve over time to support the Scottish Government's circular economy objectives."

The bill provides the legislative framework for the operation of the tax, but does not set the specific tax rate, which would obviously be established as part of a Scottish Government budget process.

The evidence that the committee received broadly supports the general principle that a tax be levied on the commercial exploitation of primary aggregates. Most respondents agreed that the proposed SAT aligns with the Scottish Government's "Framework for Tax 2021" and with the principles and strategic objectives that underpin the Scottish Government's approach to taxation. They also generally welcomed the consistency with the UK treatment of the tax.

On exactly the same basis as the UK levy, the SAT is an environmental tax that aims to reduce the extraction of primary aggregate, so part of our scrutiny focused on the tension between maximising recycling rates, which will contribute to the environmental aims of the bill, and keeping the tax as simple as possible.

Witnesses broadly agreed that

"to prevent behavioural change and competition"

it would be preferable to match the rate that is charged by the UK levy. It is good to see that the minister acknowledges that stability and continuity are vitally important.

We also heard that

"use of secondary aggregates could be expanded"

and that

"the quality of recycled materials is continuously improving".

Stakeholders told us that

"the availability of materials fluctuates according to the changes in the construction and demolition markets".

That said, it is

"the market and financial incentives available"

that dictate

"the amount of aggregate that is recycled."

Stakeholders told us that there is still "a general perception" that secondary aggregates are somewhat inferior and that the lack of demand for them, coupled with the current low rates for the aggregates and landfill tax, contribute to potentially recyclable material still ending up in landfill.

The committee has expressed

"reservations regarding the potential of the SAT to incentivise the switch to recycled secondary products and reduce the use of natural products",

which is a key ambition of the bill, without there also being

"an increase in the tax rate above that currently charged, or broadening the use and classification of recycled aggregates",

which is a key point from the committee's deliberations.

One of the main challenges that we identified during scrutiny of the bill was the lack of relevant data, which I hope that the Scottish Government understands is a serious concern, since it impacts on the scrutiny process. For example, we heard that

"HMRC does not currently hold Scotland-specific data on the volume of taxable material located in Scotland or moved throughout the UK."

Although we understand the current limitations with regard to the availability of disaggregated data, our committee is strongly of the view that such data is essential in order to establish tax elasticities

"and enable future governments to set an appropriate rate of tax"

that will achieve the circular economy ambitions.

**Michelle Thomson (Falkirk East) (SNP):** I, too, will speak about referencing data in my speech. However, we need to be clear that the data that the Scottish Government does not hold is actually data that the UK Government does not collect, and we need to emphasise the need for disaggregated Scottish data across the piece. Does Liz Smith agree?

**Liz Smith:** I agree absolutely, and I know that Michelle Thomson has been very active in citing several instances in which we feel that the data is not appropriate for some of the legislation. It is not just about the UK Government's inability to disaggregate the information that we need, but about the Scottish Government's need for access to that data, in order for us to do our job properly, whether that is in committee or in the chamber.

We also heard concerns regarding non-compliance with the existing tax regime. Those were based on anecdotal evidence rather than anything scientific, so we do not have terribly much information about that aspect. However, it was put to us by many stakeholders that there is anecdotal evidence about such non-compliance, and that is an area of concern to the committee.

Our report welcomes Revenue Scotland's intended approach to ensure that compliance and enforcement are very much better in the future. It calls on Revenue Scotland to

“work closely with local authorities”

to identify

“quarrying activity”

and how that works.

With regard to part 2 of the bill, the minister mentioned that there have been considerable concerns about the lack of consultation on its provisions. Although I appreciate that the minister has said that the proposals in part 2 followed detailed discussions with Revenue Scotland, those in the industry want much greater consultation on that area.

The lack of consultation so far has given a bit of cause for concern; there is a view that the bill will not be complete unless there is consultation on part 2 and views are taken on board. The committee shares those concerns, and we therefore note in our report that

“This approach does not support effective policy-making”

unless we have that full round of evidence.

I still have a lot to say, but I will finish now, as I have only seven minutes. The committee's general feeling is that we would like to support the principles of the bill. As yet, however, we do not feel that we have enough information to enable the scrutiny process to be as accurate as it could be.

16:01

**Jamie Halcro Johnston (Highlands and Islands) (Con):** I am pleased to open the debate for the Scottish Conservatives. I have the great honour of closing it, too, so there will be two speeches from me, both on the aggregates tax, all in one afternoon. Colleagues across the chamber must feel that all their Christmases have come early.

The Aggregates Tax and Devolved Taxes Administration (Scotland) Bill is a notable piece of legislation. The aggregates levy was devolved, alongside other taxes, as part of the Scotland Act 2016—and here we are, just eight years later, finally getting round to it.

As a member of the Finance and Public Administration Committee, I thank all our witnesses for their contributions to our stage 1 scrutiny, and I thank the Scottish Parliament information centre and our clerks for their support and efforts in helping us to put together our stage 1 report.

As my colleague Liz Smith highlighted in speaking on the committee's behalf, the bill will update the levy on aggregates that are collected in Scotland and the administration of devolved taxes as part of the Scottish Government's circular economy goals.

The Scottish Conservatives are supportive of the principles of the bill, but we recognise many of the concerns that are raised in the Finance and Public Administration Committee's report. We hope that Scottish Government will address the outstanding concerns that were highlighted during the evidence sessions on the bill.

I will focus in my opening speech on just some of those concerns. First, although it is welcome that there appears to be a collaborative relationship between Revenue Scotland and HMRC, and that there will be formal data-sharing arrangements with HMRC, it is not expected that data on the aggregates tax will be transferred at the start of the process, which will leave Revenue Scotland “starting from scratch”.

Concerningly, one of the issues that the Finance and Public Administration Committee has heard about time and again—which also Liz Smith raised—in relation to the bill and in other areas, is a lack of relevant data. There simply is not the disaggregated data at a Scotland or sub-Scotland level available from HMRC relating to the UK levy or more widely.

The committee was strongly of the view that that “data is needed ... to establish the tax elasticity”

and to allow future Scottish Governments to set an appropriate SAT rate to both achieve its aims and to manage the risk of behavioural change.

I recognise that—as Michelle Thomson pointed out—that is an issue with how HMRC collects its data. I welcome, in the Scottish Government's response to the committee's report, assurances that it is working with Revenue Scotland on how to improve data collection when Revenue Scotland takes over administering the tax.

The committee was also concerned about the issue of compliance, or current non-compliance, and how that would be addressed in the future. There was anecdotal evidence from industry that non-compliance was at significant levels, including in the islands, and that that was impacting on some businesses and their economic competitiveness with others.

I have to admit that, certainly on the smaller scale of non-compliance, I am surprised that the reward outweighs the risk. The current SAT rate of £2.03 per tonne—I know that it is increasing—would amount to only around £40 for 20 tonnes of aggregate. I suspect that much of the non-compliance is due to lack of awareness, or because the activity is either traditional or occasional extraction. Perhaps Revenue Scotland can target compliance in that area by promoting better awareness of responsibilities. However, I accept that it would be a different picture for larger amounts, and the committee welcomes Revenue Scotland's assurances that there will be a focus on compliance and on enforcement.

I remain slightly sceptical that, because this is only the third tax that Revenue Scotland is administering, that will somehow allow it—certainly in the early days—to more effectively target non-compliance and ensure that all tax is collected. However, engagement with industry and other stakeholders will be key, and it is welcome that that appears to be part of the approach that Revenue Scotland is advocating.

Of course, given that we do not have the full data on how much UKAL is currently paid in Scotland, it will be harder to make judgments on how efficient Revenue Scotland is when compared to HMRC.

The last area that I will look at is effectiveness. Will SAT work and meet its objectives? There are reservations there, too. As Liz Smith highlighted, the committee heard that although the quality of recycled material is improving, it is still considered inferior to primary aggregates, and there are issues about availability and consistency of supply.

That suggests that decisions on the use of recycled materials—which are the reason for the tax—will come down to price point, and that the

rate will likely dictate the SAT's success in achieving its environmental objectives and encouraging the use of more recycled material and less primary aggregates.

Witnesses mostly agreed that the rate should be kept in line with the UK rate, and the minister—in his response to the committee and in the chamber today—accepted that stability and continuity will be important considerations in how any changes to the rate are made.

Given the importance of the construction sector, and with Scotland finally declaring, only yesterday, a housing emergency and a recognition of the need to increase house building, the Scottish Government will likely have to choose between environmental and economic targets, because putting up the rate to a level that could see real behavioural change and significantly increased use of recycled materials risks increasing construction costs and tightening margins that are already tight.

I will draw my initial contributions to a close there, and will comment on the other issues in my closing speech. I look forward to hearing other colleagues' thoughts on the bill.

16:07

**Michael Marra (North East Scotland) (Lab):** Scottish Labour welcomes the establishment of the Scottish aggregates tax, and we will support the general principles of the bill. I thank the minister for his engagement with me and colleagues early on in the process.

As members have already mentioned, the power was originally devolved in the wide-ranging application of further powers to the Parliament after the Smith commission report and the ensuing Scotland Act 2016. It is perhaps not the leading light of some of those powers—we often talk about the Scottish child benefit that was brought into being as a result of that—but, no matter what, we have to get on and ensure that the tax is introduced by 1 April 2026.

The policy memorandum for the bill states that the Scottish aggregates tax will retain

“the fundamental structure”

of the UK aggregates levy because

“this approach offers a degree of continuity for taxpayers”.

It is welcome that the Scottish Government has heeded the request of industry to mirror the UK aggregates levy to a very large extent, given that many businesses will be operating in both jurisdictions. Difference for difference's sake would serve absolutely no one. However, there are some conflicting signals coming from the Scottish



Government as to the future intentions for the tax. The policy memorandum for the bill states:

“The Scottish Government intends that SAT will align with wider ambitions to deliver a fair, green and growing economy; in particular, the Scottish Government’s ambitions for a circular economy.”

Those are laudable ambitions, and Scottish Labour certainly wants a fair, green and growing economy. The policy memorandum goes on to say that the tax will achieve that by

“encouraging the minimum necessary exploitation of primary aggregates”

and

“maximising the use of secondary and recycled aggregates”.

As the Mineral Products Association Scotland highlighted in evidence to the Finance and Public Administration Committee, the tax does nothing to increase the availability of recycled or secondary aggregates. There are also limits to the extent to which recycled materials can be used instead of primary aggregate, with the Scottish Environment Protection Agency noting that

“recycled aggregates are very unlikely to displace virgin aggregate use altogether”.

Therefore, it is hard to see how that will be achieved without increasing the rate of SAT. Continually increasing the rate of SAT to incentivise the use of recycled material will lead to greater divergence from the UK levy, which industry and Government have both said that they wish to avoid.

My concern is not so much that vast quantities of aggregate material will be transported south of the border—the clear evidence taken by the committee was that, given the costs of transportation, there is not a significant flow of aggregates across the border. I am sure that Parliament and industry would appreciate clarification from the minister as to how the balance will be struck between the circular economy aims and the stability and continuity that he spoke of when appearing before the committee.

I turn to part 2 of the bill. Some of the provisions could be akin to using a hammer to crack a nut. Section 52 seeks to prevent a taxpayer from making a repayment claim where they have failed to pay an amount of a different tax, and section 56 would allow Revenue Scotland to offset a taxpayer’s credit against the debit.

At present, there are two devolved taxes—land and buildings transaction tax and Scottish landfill tax. Should the bill pass, there will be three. The Chartered Institute of Taxation questioned the proportionality and necessity of those measures,

and the Law Society of Scotland suggested that it was

“disproportionate in a tax system which only includes two devolved taxes”.

The Institute of Chartered Accountants voiced similar concerns.

Section 56 is based on equivalent provisions of section 130 of the UK Finance Act 2008, but those provisions have been used only on very rare occasions in the UK, which is a much larger jurisdiction than Scotland. The Law Society of Scotland pointed out that the provisions in the 2008 act are seen by some as an extreme measure.

Responding to concerns regarding taxpayer protection—

**Michelle Thomson (Falkirk East) (SNP):**

Arguably, the UK Government should be using such measures much more frequently. I am on record commenting in this Parliament that an estimated £262 billion is lost to UK gross domestic product every year as a result of tax avoidance, money laundering and so on, which I think rather puts that into context.

**Michael Marra:** I very much agree with Michelle Thomson. Financial crime and tax avoidance are far greater crimes and a greater problem for this country than is often recognised. However, in relation to the provisions in this bill, it was stated that

“set-off would come into effect where there was no dispute about the amount of tax that was due”.—[*Official Report, Finance and Public Administration Committee*, 12 March 2024; c 27.]

Therefore, it is not necessarily a particularly sharp instrument to deal with the issues that Michelle Thomson raises. However, that is not explicitly set out in the bill as introduced, and I would welcome clarity from the minister as to whether it has been made explicit that there has to be agreement between parties in regard to the offset.

In closing, I welcome the introduction of the Scottish aggregates tax and the sensible approach that the Scottish Government appears to be taking, recognising that Scotland’s taxes do not exist in a vacuum but rather interact with the wider UK tax system. That is essential if we are to build a system in Scotland that works for the benefit of taxpayers and businesses and raises revenue in a sustainable way. I urge the Government to take the same sensible approach with all its fiscal decisions.

16:12

**Ross Greer (West Scotland) (Green):** The Scottish Greens welcome and support the bill. I feel like somewhat of an interloper in the debate,

because as much as I am a member of the Finance and Public Administration Committee that scrutinised the bill at stage 1, I was absent from all the stage 1 proceedings because I was substituting on the Health, Social Care and Sport Committee. I even missed the committee's visit to a quarry. I am still waiting on Michael Marra to bring me the pet rock that I was promised.

I am glad that the bill is finally before Parliament. It does not have the headline-grabbing elements of what was agreed 10 years ago, but it is important. It is timely that it is going through concurrently with the Circular Economy (Scotland) Bill. The policy memorandum makes it clear—indeed, the minister made clear in his opening speech—that the bill forms an important part of the Government's ambition for Scotland to develop a model for a much more circular economy and to reduce our waste, which I believe is an ambition that is shared by members across the chamber.

We want to maximise the use of recycled aggregate and minimise the extraction of fresh aggregate, but there is a challenge here, which is highlighted in the committee report. It is not yet clear the extent to which the bill, or the aggregate tax once it comes in, will contribute towards that objective. The Scottish Government has emphasised, for understandable reasons, the desire to have continuity with the existing UK-wide scheme.

Daniel Johnson made an important point in the opening speech for Labour about the need for us to consider, as part of the wider package, non-fiscal measures such as construction standards to further incentivise the circular economy in the construction industry. I agree on the need for the tax to be as simple as possible, particularly given that it is not likely ever to have a particularly high revenue yield, and the more complicated that we make it, the more the administrative costs take up a chunk of what is raised. I urge the minister to give more detail on the Government's overall direction of travel ahead of stage 3 as to how the bill will maximise its contribution towards a more circular economy.

To add something new to the debate, I highlight that one part of the overall picture is missing. Far too often, buildings that can be refurbished are demolished because it is simply more cost effective to do so. Demolition is cheap—in fact, demolition and most elements of the construction of new buildings are exempt from VAT. The construction of new buildings is typically far more carbon and resource intensive than refurbishment, even when that construction uses recycled material.

The Scottish Greens have long supported calls to reduce VAT on refurbishment and restoration, but that is a reserved issue and not for this

Parliament. We need to look at the financial levers in our power to further incentivise those less carbon and resource-intensive and environmentally degrading forms of work.

It is in our power to create a demolition levy, which the Chartered Institute of Building and a number of figures and organisations in the construction industry have long advocated for. An aggregates tax together with a demolition levy would be a much more effective way to incentivise those less carbon and resource-intensive forms of building practices.

A demolition levy under the current terms of the Scotland Act 2016 would need to be a local power, but that is no bad thing, as it would give local government yet more fiscal empowerment. It would also contribute to the preservation of our built heritage. It is not hard to see how much good a demolition levy would do in areas such as Glasgow, where we have lost so much of our built heritage in recent years, primarily for the reasons that I have just mentioned.

Overall, this is a competent bill. I agree with the recommendations of the Finance and Public Administration Committee and the Delegated Powers and Law Reform Committee about the changes that are required to it. However, the changes that are primarily required are outwith the scope of the legislation and are more about the operational challenges, particularly in relation to data.

I congratulate the minister and the bill team on a very competent and well-put-together bill, which the Scottish Greens will be more than happy to support. However, there are significant challenges, so, for the purposes of post-legislative scrutiny, I encourage the minister to bring as much information to Parliament ahead of stage 3 as possible to inform the debate.

16:16

**Willie Rennie (North East Fife) (LD):** I have a direct interest in well-managed quarries, as I have several of them in my constituency. They are incredibly important for the construction of houses, railways, schools and key public infrastructure.

This is an incredibly important debate, although it might sound incredibly dull—[Interruption.] Daniel Johnson says that it is only me who is dull.

In the early stages, the industry was concerned because the Government spoke about creating a new and distinctive tax and also about the pace of the progress on the legislation. It had particular concerns in relation to cross-border issues, which we have already discussed this afternoon. The industry highlighted to me the nature, complexity and scale of the issues involved for what is, rightly,

a small revenue. Nevertheless, it is important for that sector that we get it right, so I urge the minister to include representatives of the sector in a working group similar to the one that helped to develop the UK levy.

I am using this opportunity—thankfully, on a sleepy Thursday afternoon, during a debate that, I hope, nobody is watching—to praise the minister effusively for responding positively and engaging the industry. I had very positive responses from the sector about his particular engagement with it and his ensuring that its voices were heard; I give full marks to the minister in that regard. The technical advisory group met several times, which included meeting the industry, and I understand that a visit to Angle Park Sand and Gravel Company near Ladybank in my constituency was very helpful for explaining those complexities.

It is good to have a bit of stability in transition. This is an important piece of legislation and an important new tax power. However, when we do not really know all the aspects of the revenue—where it is coming from and how it is spent—we need to move slowly so that we understand more. I understand the criticisms about the lack of information. However, that emphasises the point about having a smooth transition so that we do not disrupt the industry and cause anxiety, and so that we are able to get a cost-effective delivery of the aggregates for the construction sector at a time when inflation is going through the roof. We need to ensure that we keep that under control.

I noticed that the minister was not giving anything away about the rate that would be set, but I read the mood music with which he indicated caution, which I very much welcomed—that was the right thing to do.

When I was MP for Dunfermline and West Fife, Longannet power station was within my constituency. A company called ScotAsh used to take the fly ash from the chimney flues and turn it into cement. It was a much more low-cost, low-energy-intensive cement-making material. However, it was incredibly difficult to get the industry to engage with it and use it, mainly because it was different. The quality was very good, but, because it was different and people were used to using the materials that they had always used, they wondered why they should change. The tax approach will therefore be important to encouraging new behaviour, because the industry is used to doing what it is used to doing. I can understand why we need to ensure that we incentivise use of secondary and recycled materials in a sensible way, because, as I am sure that the industry itself would recognise, it needs encouragement.

The other aspects of part 2 of the bill that the Law Society of Scotland thinks are worth airing are

on LBTT group relief and sub-sale development relief—that is the limit of my knowledge on those two fronts—both of which I hope we will consider for amendment. An annual round of care and maintenance as part of the finance bill that is introduced every year could perhaps be considered as well.

**The Presiding Officer (Alison Johnstone):**  
We move to the open debate.

16:21

**John Mason (Glasgow Shettleston) (SNP):** I welcome the opportunity to take part in the debate. Many people might see the introduction of a new tax as not all that exciting, but for members of the Finance and Public Administration Committee, it is our bread and butter and we will all be queueing up to speak this afternoon.

The aggregates tax will be the third fully devolved Scottish tax, after LBTT and landfill tax. In one sense, it is not new, because it just replaces the UK Government's aggregates levy. However, it is still important and has potential, not least if we are serious about encouraging recycling and depending less on primary aggregates such as crushed rock, gravel and sand.

The committee heard somewhat conflicting evidence on the use of recycled materials and how far that could be expanded. MPA Scotland told us that the tax

“cannot directly minimise the exploitation of virgin aggregates.”

However, representatives of the aggregate recycling industry told us that the use of secondary aggregates could be expanded. They feel that the current tax regime, including the UK Government's aggregate levy and landfill tax, discourages recycling. When committee members visited Brewster Brothers, we saw the kind of equipment required, and clearly it adds cost to the company's product when compared with using virgin material.

The bill does not set the rate of tax—that will happen in the budget—but the current assumption is that it will match the UK Government's current rate of £2.03 per tonne. However, I remain unconvinced that we should slavishly track the UK on this matter. With landfill tax, we have always feared waste tourism if the UK and Scottish tax rates were to diverge. However, it seems that aggregate is used much more locally and would not be moved huge distances, even if the rates varied.

Local authorities suggested that they should not pay the tax at all, but such an approach would remove the incentive to recycle. That said, there might be an argument for a lower rate on the islands and other locations further from the central

belt, which already have higher costs and do not have the option of using recycled materials.

In some ways, it seems odd that the SAT should be based on the place of commercial exploitation rather than the point of production. However, that is what the Scotland Act 2016 requires. Theoretically, we could export much more aggregate than we import, and we would gain no extra tax on that whatsoever. That seems like a miniature replica of the situation with our whisky exports, which add so little to the public purse, because there is no production tax. That does not seem entirely satisfactory to me, but we have to play the hand that we have been dealt.

One of the costs of the legislation—I hope that it will not be a significant one—is that, as well as paying for Revenue Scotland and the new tax, Scotland will have to pay for HMRC and the UK Government switching off their tax. Therefore, although the devolution of aggregate taxation has been jointly agreed by the UK and Scotland, we in Scotland will have to pay both sides' costs. I hope that relatively small amounts of money will be involved, but it strikes me as being incredibly unfair and as constituting exploitation on the part of Westminster.

Part 2 of the bill has next to nothing to do with the aggregates tax but, rather, it updates the administration of Scottish taxes more generally. Witnesses highlighted the lack of public consultation, and I think that the committee shared those concerns.

I should also say that the need for part 2 of the bill has again highlighted the lack of opportunities for tidying up existing financial legislation. I am supportive of the idea of an annual or biannual finance bill for that purpose, and I am glad to see that the Government is not entirely opposed to that.

There was also some concern about increased automation, given that many people are still digitally excluded and really struggle if they cannot speak to or interact with real people. Revenue Scotland gave us some reassurance on this point, but it is something that we all need to keep an eye on.

The Law Society of Scotland suggested further desirable amendments, including to LBTT group relief and Scottish share pledges. The suggestions relate to changes from 2018 that could not be made retrospective at the time, but which I understand the Government has agreed should be made retrospective, and I guess the question now is whether the Government will accept amendments at stage 2 to deal with the anomaly.

Overall, I am happy to support the bill.

16:26

**Brian Whittle (South Scotland) (Con):**

Aggregates are a relatively specialist sector, but the details of legislation that affects the sector matter. Different aggregates are extracted, sorted and processed in different ways, and it is important that that is reflected in how they are taxed. An example that was given to me for consideration was that of a farmer who extracted aggregates from his own land for use on his own land being taxed similarly. There are matters to be considered here.

The Scottish Conservatives are supportive of the bill's general principles, but it is clear that there are opportunities for improvements to avoid creating bigger issues in the future. We have already heard the discussion about data collection and the use of technology. More and more often, we find that gaps in our knowledge are a barrier to effective legislation and administration, and we see that here again. Although I welcome the commitment to addressing those gaps, there remains a lack of detail on how and when that will be achieved.

Gathering that data, whether at a desk or in the field, will increasingly rely on the application of technology, be it artificial intelligence analysis of taxpayer-submitted reports or the use of drones, GPS and other technologies to locate and monitor the activities of those working in the sector. Although there is a recognition of that reality in the bill, it is not immediately obvious how that recognition will be taken forward and applied effectively in a way that retains public confidence.

With regard to stakeholder engagement and multi-agency working, it appears that the approach to consultation with stakeholders thus far has been patchier than perhaps it should have been. Given the importance of ensuring that the levy's implementation is not overburdensome on taxpayers and that it aligns with wider objectives, it would make sense to have the widest possible consultation and engagement from the earliest possible stage. Similarly, given the desire to use the bill to facilitate greater enforcement, there is a clear need for a commitment to ensuring that agencies across Government and the industry work collaboratively.

I appreciate the Scottish Government's argument that requiring a recurring finance bill to carry out general updates to legislation on the administration of tax could place an additional burden on the Parliament's limited time and resource. However, when set against the concerns raised by consultees and stakeholders in respect of the changes in the bill, I believe that something that offers a clearer and simpler approach to such legislation is well worth considering. Similarly, I am firmly of the view that the easier it is for taxpayers

to understand the system, to avoid overburdening them with excessive administration, the more effective our tax system will be in the longer term.

The intent over the longer term to use the tax as a means of reducing the use of extraction of virgin aggregates in favour of encouraging growth in the use of recycled aggregates is laudable and, for many reasons, highly desirable. However, I am concerned about the Scottish Government's preference for driving change through increased costs and other prohibitive measures, often without sufficient recognition of the need to balance that with support for facilitating change and encouraging innovation.

I finish my contribution to the debate by encouraging the Scottish Government to offer more detail on how it plans to achieve the shift towards recycled aggregates and, in doing so, to recognise the limitations of relying too heavily on the stick at the expense of the carrot.

16:29

**Fergus Ewing (Inverness and Nairn) (SNP):** Quarrying is an important industry in my part of Scotland, as it is in Willie Rennie's. Companies such as Breedon Aggregates perform a vital role in our economy, albeit one that is largely out of sight.

As the minister kindly alluded to, I worked with Alan Mackenzie of Breedon Aggregates, formerly of BEAR Scotland, who has lifelong experience in the area, and I believe that he and others in the industry have engaged with the minister and have had a very productive and positive experience. As Willie Rennie did, therefore, I extend my congratulations on the approach that the minister has taken. In addition, although I have not made a detailed study of it, the committee's work seems very thorough and reasonable. I also welcome the undertaking that—in the words of the minister, which I have written down—stability and continuity will be important considerations. That is very important for the industry.

I spent the best part of 10 years—almost precisely 10 years, in fact—in charge of ministerial portfolios for energy, business and tourism, then for the rural economy, which simply involves different types of businesses. Over that whole period, I found that the key to success—indeed, the sine qua non of success—is having the closest possible relationship between business and Government. By that, I mean their being able to come together not just in some ad hoc way but regularly and formally—for example, every three or six months, depending on the nature of the topic—with business feeling that not only is it being listened to but its reasonable asks, many of which do not involve expenditure, are being acted

on. Only then, when that partnership works in an effective way and businesses feel that they are not simply being fobbed off, can progress be made. Indeed, I would argue that, without that relationship, it is simply not possible to understand the complex realities that, frankly, we do not know, because we are not living the business.

My main point, therefore, in this short speech is to suggest something that I think should be set out in statute, because then it has to be the case. I am not really one for prescription, by and large, but another Government might again decide to enter into some of the policies that we have seen over the past three years—of which, members might have noticed, I have not been an unqualified fan and devotee.

My suggestion is to insert at stage 2 of the bill what I think would be a guiding and useful tool: a provision that puts in place some sort of arrangement for a Scottish minerals forum. Such a commitment by the Scottish Government would be seen as serious by the business, because it would allow the issues that we have discussed today—the level of tax, the rate of increase and whether we want to give a long-term guarantee—to be addressed. It is always good to give business the assurance that things will not change for a long period, given that most capital projects take five, 10 or 15 years. They are not short term.

Lastly, it is thought that capital projects in the Highlands will amount to between £40 billion and £50 billion over the next 10 or 20 years. We must not forget that aggregates are not the master but the servant; they exist to enable us to do things. We must not forget that when we see that the explanatory notes say that the aim is to

“reduce the extraction of primary ... aggregate.”

That must not happen at the expense of vital projects, whether they be the A9, pump storage schemes, new housing or hospitals such as the Belford hospital. We cannot sacrifice those things simply because we want to use less aggregate—that would be absurd. I state that because it would be useful if the Scottish Government made that point clearly, too.

16:34

**Daniel Johnson (Edinburgh Southern) (Lab):** Frankly, there have been far too many apologies about this topic being dry and dull. Simply being able to join my former colleagues from the Finance and Public Administration Committee is a huge pleasure, and I thank them for their diligent work.

Although some might think that this is simply a dry debate about levying tax against gravel, sand and rock, it is more important than that in two critical ways. First, a Scottish tax on aggregates

was a recommendation of the Smith commission in 2016—and we do need to think about why it has taken so long. Secondly, and more importantly, we are talking about aggregates, which are the primary ingredients of the products that go into construction. Although I do not wish to be too glib, we are talking about the literal foundations of the economy, because economic growth needs to be built. Looking at how this tax will operate is therefore very important for the wider economy, and I will come on to that in a moment.

I will briefly touch on a point that other members have made. The act became law in 2016, and I, as a committed devolutionist, want devolution to be a dynamic relationship—one in which powers can be explored and taken on in this place on a much more dynamic basis. We need to gently ask ourselves why this move has taken eight years. Is the aggregate tax going to change the nature of the Scottish Government's finances overnight? No, but we need to look at how we can improve the speed at which we can adopt and implement new powers.

The points that Fergus Ewing just made are very important. As I said at the beginning of my speech, I believe that economic growth is important, and, if we are to have economic growth, we need to build things. I like to remark on the fact that we can do anything in Scotland, from making concrete in Dunbar to building satellites in Clydebank. The point that that makes is twofold. One is about the breadth of the Scottish economy; the other is that, critically, economies work only if we link them up. Our economy can work only if we can get goods from point A to point B, whether those goods are primary inputs or finished products going to customers.

We need to build and construct roads. That is why the controversies around the A9 are so important and why we need to look at them carefully. We do not want to increase the cost of building those vital connections within our economy. Whether they are to be used for roads or buildings, we need aggregates for the future of the Scottish economy. We need to remember that things such as floating foundations for offshore installations might well be constructed from concrete, which uses aggregates as a primary ingredient. Let us look at these things very carefully.

Fergus Ewing makes an excellent suggestion about a mineral products forum. That sort of partnership between Government and business is at the heart of good industrial policy. Business needs not just to be consulted and to have the occasional conversation, but to feel that it is in the room when critical decisions are being made and to understand how those decisions will feed through into Government policy—not just within

the economy portfolio, but right across public policy.

We need to make sure that the aggregates tax works. I am mindful of what the minister has said about the rate coming later, but we do not want it to deviate too much. We need stability, and we also need to be mindful that much of Scotland is very close to the border. We do not want to see a situation in which our aggregates are being shipped north of the border because that is cheaper and, essentially, there is a form of arbitrage. Most importantly, we need to be joined up.

I thank Ross Greer for alluding to my comment about non-fiscal measures. I agree that we need to see improvement in the recycled content. We have already seen some improvement—the Mineral Products Association points out that there has been an increase in the use of recycled products over the past 10 years—but we could go further. When I visited Tarmac recently, it pointed out that road standards could be improved so that it could use newer technologies with increased levels of recycled material. That is a non-fiscal measure that we need to look at to improve the use of recycled content.

**The Presiding Officer:** Michelle Thomson is the final speaker in the open debate.

16:38

**Michelle Thomson (Falkirk East) (SNP):** It falls to me to shed the last beam of light from the Scottish National Party back benches, so I will try my best. First, I extend my thanks for the thorough way in which the minister has carried out his duties. I always have confidence that he is across his brief and well prepared as he appears in front of the FPA Committee. Secondly, I thank Revenue Scotland, which always exudes a certain joy about its role of robust tax collection.

I will comment briefly on some of the themes that have already been covered. First, the potential take for this tax is very low, assuming that the rate remains the same. Even if it reaches the top estimate of £61 million, we must bear in mind that that will be treated as part of the block grant adjustment via the fiscal framework. I suspect that the cost of set-up will far outweigh any benefit, and, in common with my colleague John Mason, I have to comment on how costs have been allocated. The Scottish Government having to reimburse the UK Government for switching off UKAL and bearing the costs of set-up is another example of heads Westminster wins, tails Scotland loses.

I fear that the levy is a bit of a tinkering tax that will have only a limited ability to make a difference, be it in driving forward a circular economy, in tax

take or in changing consumer behaviour. I can sense that that view is shared by Opposition parties, yet we are all going along with it—so, it is all good so far.

My second comment is about data, which has already been referenced by others. We do not know how many quarries we have, a certain percentage of them appear not to be paying UK tax at all, we have no Scottish disaggregated data from HMRC, and the mechanisms for collecting the data are very uncertain. The committee's stage 1 report notes:

“While we understand the current limitations with regards to the availability of disaggregated data for the UKAL in Scotland, the Committee is strongly of the view that such data is needed in order to establish the tax elasticity and enable future governments to set an appropriate rate of tax that will achieve the above stated aims while effectively managing the challenges and risks of behavioural change.”

That is an important comment, albeit a slightly technical one, and I certainly agree. Data is something that we lack in Scotland. Just recently, I wrote to the Office for National Statistics to inquire how we can access Scotland-specific data for the likes of inflation according to the consumer prices index or even those areas that are provided as inputs to CPI inflation. I fear that our Scottish Government is having to make financial decisions based on guesswork, and that cannot be acceptable.

My second theme concerns unregistered quarries, or so-called pop-up quarries, with materials taken from fields. The stage 1 report notes that “this could be significant.” Section 8(5) of the bill seeks to deal with that position, and it states that, where there is a supply chain arising from an agreement to supply aggregate, every person in that chain

“is liable to pay the total amount of tax chargeable on the quantity of aggregate as a result of the agreement, unless”

they have acquired the aggregate from a supplier who is registered for tax. That can only involve significant effort, including visits to sites. Revenue Scotland appeared confident that it could make a difference in that regard, but that remains to be seen.

My final observation concerns the opportunity to encourage the use of secondary aggregates. MPA Scotland stated that the UK has

“seen continued growth in the use of recycled materials and secondary aggregates”

and noted the indication that

“89 per cent of secondary and recycled aggregates are being used within the market.”—[*Official Report, Finance and Public Administration Committee*, 5 March 2024; c 34.]

There is still much that is unknown in this matter, however, and we are clearly some way

from utilising the legislation to help improve a circular economy.

**The Presiding Officer:** We move to winding-up speeches.

16:42

**Maggie Chapman (North East Scotland) (Green):** I am pleased to close on behalf of the Scottish Greens this afternoon, and I will begin by thanking the Finance and Public Administration Committee for the detailed scrutiny of the bill and for its stage 1 report. As others have already done, I also thank those who gave evidence during the stage 1 process and those who have provided advice and commentary on the proposed legislation.

I think that I am the only member in the chamber at the moment who was involved in the Smith commission discussions that led to the Scotland Act 2016, which others have highlighted. Then, we were quite clear that further powers for Scotland to design the fiscal levers to suit our own needs were an important outcome of the Smith commission process. Michael Marra said that he did not think that the devolution of the aggregates levy would have been a leading light in those discussions. As much as I love a good gravel tax conversation, I have to admit that he is not wrong.

We believe in the importance of taxation for sustaining our economy—

**Willie Rennie:** [*Made a request to intervene.*]

**Maggie Chapman:** Yes—I will take an intervention from Willie Rennie.

**Willie Rennie:** I did not intend to do that. My apologies.

**Maggie Chapman:** We believe in the importance of taxation for sustaining our economy and our communities, and for funding our public services. However, taxation is not just a revenue-raising measure; it is a tool for behaviour change. On that subject, we share the minister's ambitions to create an economy that is green, fair and, importantly, circular. However, we have clearly heard this afternoon that the aim of maximising the use of secondary materials such as processed construction waste is undermined by the already high and increasing rate of recycling in the sector. The rate of recycling is already at about 89 per cent, but there is clearly room for improvement. Perhaps we need to be a little more creative and ambitious in how we use the tax.

As John Mason has said, the UK rates of taxation have remained unchanged for many years. Although we understand the initial intention to align the tax level with that of the UK aggregates levy, we might be able to achieve

more—increased recycling and reuse, of course, but more besides. There is a lack of solid research and data describing what exactly the potential is, considering the underdeveloped market for construction and demolition wastes. Increasing rates of tax might provide the incentive and funding for such research to be done.

Local authorities are clearly a key stakeholder in all this, because they will be affected in two major ways. First, they will be liable for tax themselves, being the proprietors of first-point commercial exploitation of taxable aggregates. Secondly, there is a safety element to the use of recycled materials, which local authorities are bound to observe and enforce. Reliefs and, possibly, exemptions might be needed to offset the costs of that disproportionate burden and the ultimate purpose of public infrastructure and service delivery. However, that might be a discussion for another day.

With the bill, we need to consider the resources that Revenue Scotland will require to ensure that all liable taxpayers are identified and monitored over time.

I have already touched on the importance of data and of really understanding what we have, so I look forward to the publication of some of that data next year by the Scottish and UK Governments.

I will make a brief comment on part 2 of the bill. We welcome the minister's assurances that there will be engagement and consultation with the public and relevant stakeholders before the introduction of any regulations that are relevant to the measures that are contained in part 2. We look forward to the parliamentary scrutiny of those regulations, particularly the provisions on automation, and we welcome the minister's commitment to make sure that all the regulations fit with our broader tax objectives.

The Scottish Greens welcome the establishment of the Scottish aggregates tax and we will be pleased to support the bill at decision time.

16:47

**Michael Marra:** Scottish Labour welcomes the introduction of the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill, and I thank members for their contributions in the debate.

In the week that we have marked the 25th anniversary of the Parliament, it seems somewhat fitting that we are getting on with the work of further devolution, with decisions being taken closer to home. Crucially, those decisions are being taken in a way that recognises the context in which we are working and seeks to build a constructive relationship with UK counterparts on

how we interact in that regard. Fergus Ewing and Daniel Johnson both touched on how crucial those relationships are, as is the relationship with business for the Parliament and the Scottish Government. I echo those thoughts. Nothing could be more important when we consider our tax regimes and how they turn towards productivity, rather than the opposite—the suppression of economic activity in Scotland.

Given the comments of members across the chamber, it would be fitting if the minister would provide further clarity in reiterating how the Scottish Government intends to balance continuity and stability for business with its plans for the circular economy. I realise that the full extent of that commitment will be set out in the budget process when the tax rates are set, but it would be good to have assurances on the record from the minister in his closing remarks.

There has been quite a lot of discussion about data today and, principally, about the lack of it. Michelle Thomson and Jamie Halcro Johnston talked about the disaggregation of data, including, crucially, across the UK. If it was disaggregated appropriately for Scotland, data that is held in Whitehall would be better to use, as much for policy development as for scrutiny by the Parliament.

Another data issue that has been discussed is in relation to the secret quarries around Scotland. The Finance and Public Administration Committee has been slightly sceptical about how one might hide a quarry, but the evidence that we have heard from the industry is that such forms of activity go on and that the industry is concerned about a lack of compliance with the current taxation regime. Revenue Scotland has said that it is aware of the issue but that the level of non-compliance is not yet fully understood due to the lack of data.

Anecdotal evidence suggests that a significant amount of revenue may have been lost to the public purse in that regard. The provisions in the bill that seek to improve compliance are certainly welcome, but more data would help with that. I also draw the Government's attention to the Finance and Public Administration Committee's recommendation that Revenue Scotland work closely with local authorities to identify unregistered activity in local areas. I know that Revenue Scotland would always be happy to hear from people who have complaints and suspicions in that regard.

In my opening speech, I touched on some of the concerns about part 2 of the bill. Some of my finance committee colleagues have raised the possibility of a finance bill, and I know that the minister has answered questions from the committee about that. The Scottish Government



should at least commit to considering such a bill, given that the Parliament has far more fiscal powers than it did in 1999. A mechanism should perhaps be developed for updating the regulations annually to ensure that the taxation is put towards the most productive ends.

Some of the concerns that have been expressed about part 2 could have been addressed at an earlier stage if the Government had consulted on the provisions. A range of stakeholders, including the Chartered Institute of Taxation, the Institute of Chartered Accountants of Scotland and the Law Society, expressed their disappointment about the failure to consult on them. As the committee's stage 1 report states,

"By not consulting on these provisions before the Bill was laid, a valuable opportunity for the Scottish Government to discuss stakeholders' concerns was lost."

I am yet to hear a convincing argument as to why that consultation was not undertaken.

I will close by reiterating the comments of some of the other speakers in the debate. Daniel Johnson put it well when he said that we are literally talking about the foundations of the economy, and another colleague highlighted the housing emergency, on which we agreed in the chamber yesterday. If we are to see the vast increase in house building that we require in this country, we will not just need a better planning system, better Government regulation and a more proactive approach to funding. We will also need sand, so we have to make sure that we get the bill right.

16:51

**Jamie Halcro Johnston:** As I said in my opening speech, we support the general principles of the bill, but not without sharing some of the concerns that are held by the Finance and Public Administration Committee. Like other colleagues, we believe that it is right to create incentives for investing in recycling, encouraging the use of recycled materials where possible and diverting natural material away from landfill. That is in line with the Parliament's environmental objectives.

Although it may have taken us eight years to get to this point, the devolution of certain taxes is in line with the 2016 changes to the Scotland Act 1998. One of the main challenges that we face, which was highlighted by a number of members across the chamber, is the uncertainty about potential behavioural change and how that may impact on elasticities of demand for the various aggregates. That important issue speaks to the challenges that will be key in determining how we vote at stage 3. If it became clear that the new tax might have to increase above the existing rate of the UK aggregates levy in order to create a

stronger push towards recycling—as we made clear earlier, witnesses argued against that and the minister hinted, at least, that the matter will be an important consideration in relation to how changes are made—we would also have to weigh up whether any higher tax could deter activity. In other words, as is the case for other devolved taxes, we have to weigh up what will happen in practice.

I reiterate the point that I made earlier, which was also made by many other contributors: the problem is compounded by the fact that we are struggling to harness sufficient data one way or another. We do not know what UKAL data is relevant to Scotland, nor do we have sufficient data to model the likely changes. That is a real challenge, and it highlights an issue that my colleague Liz Smith and the finance committee more generally have been extremely vocal about for a long time, which is that there is a need for more transparency about taxation. The committee has made it clear that much more research needs to be undertaken before any informed decisions can be made, both to get a better handle on the different elasticities and to ensure that the rates of the new tax can be set appropriately. Again, that matter will be important in determining how we vote at stage 3 and the outcome of the bill.

I turn briefly to some of the other contributions to the debate. Tom Arthur talked about the engagement with stakeholders, which is extraordinarily important. One of the committee's concerns is that there has not been in-depth engagement on part 2. However, as Fergus Ewing highlighted, the Scottish Government will consider the calls for a Scottish minerals forum, and I welcome that. Such a forum has to meet and it has to be an important partner.

Daniel Johnson made the point, and the minister commented on it, that the tax will be only part of a suite of options that will go forward.

Liz Smith highlighted an issue that I raised about the quality of the product and how that impacts on the use of recycled materials. The low costs associated with landfill may also hold down the use of recycled materials.

The lack of data is also a real issue. I agree with Michelle Thomson's point that that is an issue for HMRC but that there is also an opportunity for future improvement.

Michael Marra spoke about the limits on the use of recycled material and warned about any potential move away from alignment with the UK, which I think is absolutely right.

Like Ross Greer, I was not able to attend the quarry visit and also did not get any stone or rock. I am not sure whether it might have been seen as

commercial exploitation had we received such a gift, but it was certainly disappointing.

I was shocked by Willie Rennie's contribution, as I think other members were. He described this as a dull subject, which shows him to be a politician who cannot find the passion in anything. I was very disappointed. He also, somewhat shamelessly, moved his affections and praise from Jamie Hepburn to Tom Arthur in the blink of an eye. Poor Jamie Hepburn must be struggling somewhere. Then Mr Rennie involved himself in a disruptive approach to poor Maggie Chapman's speech when he called for an intervention. It was a shameful episode from Willie Rennie.

Brian Whittle rightly highlighted some of the impacts on farmers if aggregates are extracted from their land, so I remind members of my entry in the register of interests as a partner in a farming business. He also highlighted the potential to use technology. There is not a lot of detail about that, but there may be options to use artificial intelligence or drones, which has to be done in a manner that does not lead to a loss of public trust.

I reiterate Fergus Ewing's point, which was a point that I also made, about housing and about vital construction projects such as the A9. We do not want to see those situations being made any more difficult by the new taxes.

The data issue will not go away any time soon and the committee has heard of situations in which data is either incomplete or non-existent. We also continue to have concerns about non-compliance, about the tensions between keeping the tax simple for business and meeting the objective to maximise recycling, about the lack of consultation with stakeholders regarding part 2 of the bill and about how disputes will be resolved. We are also concerned about whether revenue that is raised by the new tax will be aligned with the block grant adjustment agreed between the two Governments.

Conservative members will support the bill at this stage and we look forward to reassurances and possible amendments as it progresses.

16:57

**Tom Arthur:** I thank members from across the chamber for their constructive contributions. I also thank members who have engaged constructively with me and with the sector as the bill has been developed. I thank all who gave evidence to the committee and I thank the committee for its report, which makes a positive and constructive contribution.

Two main themes have emerged that are specific to the aggregates tax component of the bill. There is the issue of data and the issue of the

balance between the circular economy and the need for continuity.

If the bill is passed by Parliament and proceeds as anticipated, the aggregates tax will go live in spring 2026, so I am tempted to say that I expect it to be the central issue of contention in the Scottish Parliament elections and that we should let the people decide what the levy should be. The points that have been made get to the heart of why it is so important that we take a balanced and measured approach to the issue of data.

The reasons for the lack of data have been well rehearsed, and it is not entirely within our gift to resolve that. However, when the tax comes online, the operational experience that Revenue Scotland gains will begin to provide the data, which will allow more informed decisions to be made.

As I said, I cannot pre-empt decisions that will be taken for the 2026-27 budget but, when we consider the tax rate at that point, I think that we will have an opportunity not only to weigh up the arguments that we have had today about the theoretical balance between continuity and the circular economy but to take into account the prevailing economic circumstances and the decisions that the UK Government makes at that point.

Those considerations will be vital, but the key to this must be something that recognises the significant importance of the aggregates industry, as members across the chamber have done during the debate. Although we want to continue the work that the existing UK aggregates levy has sought to promote—incentivising the use of secondary and recycled aggregates—we have to recognise the point that Fergus Ewing made powerfully, which is that primary aggregates are still of significant importance to our economy and will continue to be so.

Fergus Ewing made an excellent point about looking at a deliberative forum in which we can ensure that there is continued engagement with the industry that builds on the constructive engagement that we have had to date. Ahead of stage 2, we should clarify whether we could use any existing bodies or forums or whether we require something that is bespoke. However, that is a point of process; it is simply to ensure that there is efficiency and to avoid any duplication. The forum's objective would be to ensure that there is on-going engagement so that regulation is proportionate and can be a driver for innovation, investment and entrepreneurship, rather than something that suffocates or closes off those things. That will be important.

That is why it is vital that we continue to engage with business. Fundamentally, people who have been working in a sector for decades will grasp

things just like that, whereas it would take others who are new to the sector months of work to do the same. When developing legislation and regulation, we must harness and bring to bear the collective expertise of all our people in business and across every sector. That engagement has played a big role in getting the bill to the place that it is in now, and continued engagement will be vital as we take the legislation forward to stages 2 and 3 and as we implement it.

I will pick up on a number of points that have been addressed. Michael Marra raised a question about the proportionality of offset measures. I reassure him that Revenue Scotland will provide detailed guidance on that, but I understand the existing concerns. Ahead of the latter stages of the bill, ministers will seriously consider whether that should be made explicit in the legislation.

Similarly, with the provisions on communication and automation, I reiterate the commitments that I made to the committee on the vital importance of strong parliamentary engagement and public consultation. We all recognise that there are tremendous opportunities to reform public services and make them more efficient through the application of AI, but we must do so in a way that commands confidence. Full public engagement and parliamentary scrutiny will be key to commanding confidence.

In our discussions this afternoon, *inter alia*, a finance bill has been suggested. I reiterate the point that I made to the committee that ministers are open to having that discussion, but I note that it is also a matter for the Parliament, although the Government has a key role to play. Given the spirit of the budget process review group during the previous parliamentary session and given that this is about how the Parliament, which is ultimately responsible for supply, determines budget processes, we must have that level of engagement. However, it would be a fruitful project that could inform how we take forward our processes in the next parliamentary session. It speaks to the fact that we have taken on significantly more fiscal powers than we have had previously. A finance bill could provide more certainty and continuity, with a clear rhythm of opportunities for care and maintenance. I think that that would be welcomed by stakeholders and would afford the Parliament the opportunity for greater scrutiny. Of course, those things will require detailed consideration.

I thank Willie Rennie for his kind remarks. He highlighted some amendments that the Law Society of Scotland has suggested. Of course, we will give serious consideration to any amendments that are lodged, but we have to bear in mind the scope of the bill and the fact that part 2 is about broad administrative matters. We also have to

consider whether there are opportunities, through secondary legislation, to remedy any of the issues. I will take the points that Willie Rennie has raised very seriously. I reiterate the points that I made, and which Willie Rennie highlighted, about the need to take a balanced and measured approach so that the decisions that we take on the tax are fully evidenced.

Both Daniel Johnson and Ross Greer touched on key points about not seeing the fiscal lever in isolation. That is of utmost importance and has been evidenced by the approach that we have taken to date, in the recognition that we have to build up our knowledge and understanding of the data that underpins the fiscal implications of tax in relation to the aggregates industry, while also recognising that that will depend on wider economic factors, such as the decisions that the UK Government takes about the UK aggregates levy that operates in the rest of the UK and the broader regulatory environment. Those things are of utmost importance.

I extend my thanks to all the other members who contributed. There was a question about why there has been a delay of eight years. For clarity, I point out that existing UK and European challenges around the UK aggregates levy were not resolved until around 2019. We could take the matter forward only in this parliamentary session, and the bill has been taken forward in a way that has sought to ensure the greatest opportunity for the engagement of industry.

Again, I thank members for their contributions and engagement this afternoon. The Government looks forward to continued engagement as we take the legislation forward.

**The Presiding Officer:** That concludes the debate on the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill at stage 1.

## Aggregates Tax and Devolved Taxes Administration (Scotland) Bill: Financial Resolution

17:06

**The Presiding Officer (Alison Johnstone):** The next item of business is consideration of motion S6M-12713, in the name of Shona Robison, on a financial resolution for the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill.

*Motion moved,*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill, agrees to—

(a) any expenditure of a kind referred to in Rule 9.12.3A of the Parliament's Standing Orders arising in consequence of the Act, and

(b) any tax imposed in consequence of the Act in relation to which Rule 9.12.3B(a) of the Parliament's Standing Orders applies.—[Tom Arthur]

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

## Point of Order

17:06

**Stuart McMillan (Greenock and Inverclyde) (SNP):** On a point of order, Presiding Officer. I seek your guidance on the importance of accurate contributions from members in the chamber. At First Minister's question time today, Anas Sarwar said that Inverclyde's out-of-hours general practitioner service has been permanently closed. That is factually inaccurate, and that misinformation could cause severe alarm to my constituents. To be absolutely clear, Inverclyde residents still have access to a full GP out-of-hours service. The level of local direct provision—in contrast to regional provision—is for a different debate. It is of the utmost importance that accuracy is at the forefront of everything that we do in the chamber, and I seek your guidance on how a member could correct the record after sharing such misinformation.

**The Presiding Officer (Alison Johnstone):** Points of order relate to whether proper parliamentary procedures have been—or are being—followed. Mr McMillan's point relates to accuracy, which is not a matter for the chair to rule on. Members will be aware, of course, of the scrutiny measures that are available to them to pursue matters, and they will also be aware of the mechanism that exists for correcting the record.

## Scottish Human Rights Commission (Appointment)

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

The next item of business is consideration of motion S6M-13172, in the name of Karen Adam, on behalf of the selection panel, on appointment of the chair of the Scottish Human Rights Commission. I call Karen Adam to speak to and move the motion.

17:08

**Karen Adam (Banffshire and Buchan Coast) (SNP):** As a member of the cross-party selection panel that was established by the Presiding Officer under our standing orders, I am delighted to speak to the motion in my name inviting members of Parliament to agree to nominate Professor Angela O'Hagan to His Majesty the King for appointment as the chair of the Scottish Human Rights Commission. The Presiding Officer chaired the selection panel, and the other members were Miles Briggs, Maggie Chapman, Katy Clark and Nicola Sturgeon.

As members will be aware, the Scottish Human Rights Commission is the national human rights institution for Scotland, and its role is to promote human rights and, in particular, to encourage best practice in relation to human rights.

I turn to our nominee, who is in the gallery today. Professor Angela O'Hagan is currently professor of equality and public policy at Glasgow Caledonian University. She is also the depute director of the WiSE—women in Scotland's economy—research centre for economic justice.

Angela's career encompasses leadership roles in the community and statutory sectors in Scotland, including as director of Carers Scotland and as head of campaigns and communications with Oxfam Scotland. She has served on a number of advisory and project groups with successive Scottish Governments, including currently as the independent chair of the equality and human rights budget advisory group, and of the national advisory council on women and girls.

Angela has an international profile—in particular, in gender and human rights budgeting and through membership of academic and civil society networks. The panel believes that Angela's blend of skills, knowledge and experience will make her an excellent chair. Together with the members, she will ensure that the Scottish Human Rights Commission fulfils its statutory duties and that the office is run efficiently and effectively and meets its strategic objectives.

I move,

That the Parliament nominates Professor Angela O'Hagan to His Majesty The King for appointment as the Chair of the Scottish Commission for Human Rights.

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

## Scottish Commission for Public Audit (Appointment)

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

The next item of business is consideration of motion S6M-13096, in the name of Maggie Chapman, on behalf of the Scottish Parliamentary Corporate Body, on appointment of a member of the Scottish Commission for Public Audit. I call Maggie Chapman to speak to and move the motion.

17:10

**Maggie Chapman (North East Scotland) (Green):** The Scottish Parliamentary Corporate Body is pleased to nominate Jamie Greene to be a member of the Scottish Commission for Public Audit.

Given that it is Thursday evening and that we are all very well acquainted with Jamie's many qualities and skills, I move,

That the Parliament agrees to the Scottish Parliamentary Corporate Body's proposal to appoint Jamie Greene to be a member of the Scottish Commission for Public Audit.

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

## Decision Time

17:10

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

There are four questions to be put as a result of today's business. The first question is, that motion S6M-13221, in the name of Tom Arthur, on the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill at stage 1, be agreed to.

*Motion agreed to,*

That the Parliament agrees to the general principles of the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill.

**The Presiding Officer:** The next question is, that motion S6M-12713, in the name of Shona Robison, on a financial resolution for the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill, be agreed to.

*Motion agreed to,*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill, agrees to—

(a) any expenditure of a kind referred to in Rule 9.12.3A of the Parliament's Standing Orders arising in consequence of the Act, and

(b) any tax imposed in consequence of the Act in relation to which Rule 9.12.3B(a) of the Parliament's Standing Orders applies.

**The Presiding Officer:** The next question is, that motion S6M-13172, in the name of Karen Adam, on behalf of the selection panel, on appointment of the chair of the Scottish Commission for Human Rights, be agreed to.

*Motion agreed to,*

That the Parliament nominates Professor Angela O'Hagan to His Majesty The King for appointment as the Chair of the Scottish Commission for Human Rights.

**The Presiding Officer:** The final question is, that motion S6M-13096, in the name of Maggie Chapman, on behalf of the Scottish Parliamentary Corporate Body, on appointment of a member of the Scottish Commission for Public Audit, be agreed to.

*Motion agreed to,*

That the Parliament agrees to the Scottish Parliamentary Corporate Body's proposal to appoint Jamie Greene to be a member of the Scottish Commission for Public Audit.

**The Presiding Officer:** That concludes decision time.

*Meeting closed at 17:12.*

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