



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# MEETING OF THE PARLIAMENT

Thursday 1 October 2015

Session 4

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# Scottish Parliament

Thursday 1 October 2015

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

## General Question Time

### Food and Drink Exports (Support)

**1. Chic Brodie (South Scotland) (SNP):** To ask the Scottish Government what contingency plans it has to support Scottish food and drink exports to Europe. (S4O-04658)

**The Cabinet Secretary for Rural Affairs, Food and Environment (Richard Lochhead):** Following the recent disruption to the operation of the Channel tunnel and the Dover to Calais ferry, the Scottish Government has asked Scotland Food and Drink to work with industry partners on exploring the potential for alternative transport routes from Scotland. That work could reduce costs and create a range of mid-term and long-term options for our businesses that are looking to export Scotland's fantastic produce.

Of course, during periods when there is a sudden shock to normal operation of business, it is important for companies to consider their business continuity and to plan alternative routes to market that meet their commercial needs. The role of Government is to help the industry to find ways of mitigating the impacts of disruption.

**Chic Brodie:** I agree with the cabinet secretary that our food and drink are fantastic products. At a breakfast meeting that I had last week with Bank of Scotland's food and drink division, it was confirmed that there are some very significant opportunities for Scottish food and drink in Europe. Can the cabinet secretary confirm that contingency plans will be in place to secure such opportunities and to avoid exposure to disruption to a single artery of supply to Europe?

**Richard Lochhead:** Chic Brodie has quite rightly highlighted the latest surveys of food businesses, in particular, the survey that was undertaken by the Bank of Scotland, which have found that most firms in the food sector are planning further growth in sales and investment and that more than three in five businesses—62 per cent—are planning to seek new international customers over the next five years. That is great news for Scotland.

That said, it is important that we respond to the recent disruption that many companies experienced in exporting to the continent, and that is why, at that time, Scottish ministers intervened

and finally managed to persuade the United Kingdom Government to adopt a quick-to-market system in which lorries carrying perishable Scottish goods and produce to the continent would be prioritised in operation stack, should it ever be reinstated. However, as I have said, longer-term work is being undertaken in the meantime.

**John Scott (Ayr) (Con):** Would the Government consider developing a website, or providing information in other ways, to illustrate alternative routes to market for time-sensitive goods to help all Scottish exporters to Europe, in the event of future blockades of ports on either side of the Channel?

**Richard Lochhead:** I am always open to ideas, and I will certainly consider that one. Of course, it is worth bearing in mind that our food industry is very experienced in getting its goods to the European continent and other international markets, and that the very advanced and complex logistics that have been built up over time are meant to deal with the demands of the industry in this country. However, if there is any way in which that can be made more transparent and open via websites or any other channel, I am happy to consider it.

**Jamie McGrigor (Highlands and Islands) (Con):** Can the minister give Parliament an update on the impact of Russian sanctions on Scottish food and drink exports? What is the Government doing to provide alternative markets for products that have been affected by those sanctions?

**Richard Lochhead:** The sector in Scotland that was most affected by the Russian food import ban was the seafood sector and, within that the pelagic sector, particularly mackerel. Thankfully, however, many of our pelagic companies in Scotland were able to find other markets.

However, a deeper implication of the Russian food import ban on Scotland is that other European countries that normally exported agricultural produce in particular to Russia now have to sell that produce elsewhere. Because they remain in the European market, the price of many of those products has fallen. As we have debated in the chamber, that has had an impact on Scottish agriculture, and it is a big issue that is facing our primary producers in this country.

### Public Sector Severance Payments (Regulation)

**2. Nigel Don (Angus North and Mearns) (SNP):** To ask the Scottish Government what consideration it has given to improving regulation of severance payments in the public sector. (S4O-04659)

**The Deputy First Minister and Cabinet Secretary for Finance, Constitution and**

**Economy (John Swinney):** Severance payments in bodies that are accountable to Scottish ministers must comply with the requirements of the “Scottish Public Finance Manual”.

The Scottish Government has considered and made improvements to the regulation of severance payments in the public sector following Audit Scotland’s report “Managing Early Departures from the Scottish Public Sector” in May 2013, including bringing more bodies within the scope of the “Scottish Public Finance Manual”. The manual sets out the relevant statutory, parliamentary and administrative requirements; emphasises the need for economy, efficiency and effectiveness; and promotes good practice and high standards of propriety. Audit Scotland’s 2013 report on early departures acknowledged that voluntary exit schemes can provide significant savings and that public bodies generally follow good practice.

**Nigel Don:** I am grateful for that extensive answer. As part of the armoury on this issue, might the cabinet secretary consider using the Higher Education Governance (Scotland) Bill, section 2 of which refers to remuneration for chairmen of governing bodies? That bill gives us an opportunity to set out a standard clause that might go into other statutes in order to tighten up the issue across the public sector.

**John Swinney:** If Mr Don will forgive me, I will not give him a definitive answer on the amendment of that bill. Given the scope of that bill, it would be difficult to put in a provision that would have wider competence, beyond provisions in the higher education sector. I understand that Mr Don has written to the Cabinet Secretary for Education and Lifelong Learning on this point. That issue will be given consideration.

I assure Parliament that the requirements of the “Scottish Public Finance Manual” are designed to provide effective scrutiny and regulation of severance payments, which, as I indicated in my earlier answer, can have a role, as acknowledged by Audit Scotland, in delivering savings, but they must be calculated and formulated in a way that is acceptable to the public purse and the manual.

### **Physical Activity and Sports (Young People in Glasgow)**

**3. Bob Doris (Glasgow) (SNP):** To ask the Scottish Government how it is encouraging young people in Glasgow from disadvantaged backgrounds to participate in physical activity and sports. (S4O-04660)

**The Minister for Sport, Health Improvement and Mental Health (Jamie Hepburn):** We are committed to ensuring that young people from all backgrounds across Scotland have equal

opportunities to participate in physical activity and sports. For example, almost £700,000 was awarded to 16 projects in Glasgow from the legacy 2014 active places fund. Mr Doris will be aware of the Glasgow City Wakeboard cable park, which received more than £50,000 through the fund. Glasgow has also seen the creation of 11 community sports hubs and, in 2014-15, our active schools programme provided just over 600,000 participant sessions, enabling pathways to over 190 sports clubs.

**Bob Doris:** The minister might be aware that almost £25,000 from the Commonwealth games legacy fund has been given to Royston Youth Action to explore how best to boost sports and physical activity opportunities in the local area. It works closely with the Royston strategy group, and I am sure that that money can help to drive healthier lifestyles and urban regeneration. I invite the minister to visit Royston Youth Action to witness at first hand how it is intended that the funds will be used to improve health and wellbeing in one of our most deprived communities, and to see what opportunities are presented not only to boost sport and physical activity but to drive community regeneration.

**Jamie Hepburn:** I am aware of that investment, which has been made through the legacy 2014 sustainable sport communities fund, which is an excellent fund that has a value of £1 million and supports 33 projects across Scotland, including social enterprises that wish to develop facilities for their local community. Some of those are in Glasgow; I was happy to visit one of the beneficiaries in Castlemilk, which is investigating the creation of a new community centre that will be linked to Cathkin Braes, which was a Commonwealth games venue.

I am delighted that Royston Youth Action is also benefiting, and I will be delighted to visit it, just as I will be delighted to visit A & M Scotland with Mr Doris tomorrow.

### **United Kingdom Minister for Skills and Equalities (Meetings)**

**4. Claire Baker (Mid Scotland and Fife) (Lab):** To ask the Scottish Government when the Cabinet Secretary for Fair Work, Skills and Training will meet the United Kingdom skills minister. (S4O-04661)

**The Cabinet Secretary for Fair Work, Skills and Training (Roseanna Cunningham):** I have scheduled a teleconference with Nick Boles for 8 October, at which we will discuss a range of issues.

**Claire Baker:** I trust that the cabinet secretary will raise the issue of the Trade Union Bill. There is widespread resistance to the bill and concerns

about the impact that it will have on public sector workers in particular.

Does the Scottish Government intend to issue guidance to national health service boards in order to protect their staff? Will it follow the lead of local authorities and commit to resisting implementation of the bill? Will Roseanna Cunningham make the case to the minister that there is a need for a legislative consent motion, given the impact that the bill will have on devolved matters?

**Roseanna Cunningham:** Our understanding is that there will be no requirement for an LCM, and no expectation of one, simply because the matter relates entirely to reserved issues. Of course, we will keep that under advisement. If we feel that the position changes, that situation might change. However, at present, our advice is that there will be no LCM.

On non-compliance, I can do no better than repeat the words of the First Minister from just a few weeks ago:

“There will be no co-operation from this Government in imposing draconian trade union legislation”.—[*Official Report*, 17 September 2015; c 18.]

We feel that the bill has the potential to destabilise the progressive approach that we are taking in Scotland. One of our difficulties is that, at present, it is difficult to tell from what is on the face of the bill what its actual impact will be. Until we know the outcome of the legislative process, it will be hard to issue guidance to public sector bodies on how to manage the process. Nevertheless, we are looking at the matter carefully. I hope that Labour and SNP members will be able to find common ground on the bill, as has happened at Westminster, because we all agree that the bill is completely unnecessary.

### Opencast Coal Sites

**5. Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP):** To ask the Scottish Government what recent discussions it has had with the United Kingdom Government on the restoration of opencast coal sites. (S4O-04662)

**The Minister for Business, Energy and Tourism (Fergus Ewing):** Representatives of the Scottish coal industry task force and key industry representatives met the UK Government on 27 August to discuss the carbon price support exemption proposal. As the member knows, the proposal was brought forward by industry and has the potential greatly to increase restoration activity and to protect Scottish jobs. On 8 September, we received a letter from the UK Government effectively ruling out the possibility of implementing the proposal in its present form. The Scottish Government is deeply disappointed with the UK Government’s response to this innovative scheme,

and the matter will be discussed at the next meeting of the Scottish coal industry task force on 28 October.

**Adam Ingram:** Does the minister agree that the lack of action by the UK Government, in relation to the return of Coal Authority levies, which was an earlier proposal, and to proper consideration of the restoration coal proposals, shows that the UK Government has turned its back on coalfield communities including those in the Secretary of State for Scotland’s own constituency?

**Fergus Ewing:** I am afraid that the facts make it difficult to reach any conclusion other than the one that the member, who has campaigned on the issue over a long period, has just set out. An outstanding proposal has come from the industry that would allow restoration to take place and would protect jobs over the next five years, and we will continue to pursue our endeavours to persuade the UK Government to change course. I fear that, if we do not manage to do that, there will be severe consequences for Ayrshire, Fife, Lanarkshire and the communities involved. I hope that the Secretary of State for Scotland will stand by his apparent views, which he voiced prior to his re-election.

**Alex Rowley (Cowdenbeath) (Lab):** I share the minister’s disappointment at the letter from the UK Government. Does he agree that the Parliament should unite to make the case further? What can we do to put in place a programme that will address the levels of dereliction in Fife, Ayrshire and elsewhere in Scotland?

**Fergus Ewing:** I am in broad agreement with Alex Rowley, who sits on the task force, which is a cross-party group, not a political one. I hope that, by working together, we can make progress. I pay tribute to the officials in each of the local authorities involved, including Fife Council, who have done sterling work with limited resources, as has the Scottish Mines Restoration Trust. However, unless we can persuade the UK Government to change tack, we may prematurely lose and forfeit another industry that is vital to Scotland. That could easily be averted if action is taken in accordance with the excellent proposal that has been put forward by the industry.

### Personal Independence Payments (Devolution)

**6. Colin Beattie (Midlothian North and Musselburgh) (SNP):** To ask the Scottish Government what changes it expects to make to personal independence payments following their devolution. (S4O-04663)

**The Minister for Housing and Welfare (Margaret Burgess):** We are consulting stakeholders and users about how we deliver our new social security powers, including disability

payments. We have made clear that we want to adopt an accessible and fairer system that is underpinned by respect for the dignity of individuals.

We will therefore look for opportunities— informed by those who have experience of the process—to ensure that we have a Scottish social security system that is suited to the needs of our people and our country. Such opportunities include improvements to the assessment process, including reducing the need for unnecessary face-to-face assessments. However, the changes that will be available for Scottish ministers to pursue will be largely dependent on a fair deal as part of the fiscal negotiations that are on-going between this Government and the United Kingdom Government.

**Colin Beattie:** As the minister is aware, there have been major delays at UK level in the processing of PIP applications. What steps might the Scottish Government take to minimise such delays and to ensure that all potential applicants are aware of the new procedures once the benefit is devolved?

**Margaret Burgess:** The delays that have been experienced by those applying for personal independence payments are unacceptable. The Scottish Government understands that the Department for Work and Pensions is taking action to address the issue, and we will continue to monitor the situation.

We have made it clear that we will ensure that people are treated with respect and dignity when they are applying and being assessed for and receiving disability-related benefits, and that appropriate advice and support are available as people go through the process.

The Scottish Government is committed to ensuring that we provide people with relevant information, so that they are aware of how a Scottish social security system will work for them at each and every stage of the process. That will include information on how long each stage, including decisions, will take.

### **Onshore Wind Farms (Subsidies)**

**7. George Adam (Paisley) (SNP):** To ask the Scottish Government how the planned changes to subsidies for onshore wind farms will affect developments in Scotland. (S4O-04664)

**The Minister for Business, Energy and Tourism (Fergus Ewing):** The United Kingdom Government has carried out what can only be described as an assault on renewables by the early closure of the renewables obligation. The decision has sent shock waves through the renewables industry, and a recent Ernst and

Young report shows that investment in onshore wind is being hit.

On 9 July, I held a summit for onshore wind developers. Their concerns have been relayed to the Secretary of State for Energy and Climate Change, Amber Rudd, and we and they await a decision on the future of renewables for the UK.

We expect the delay by the UK Government in formulating a clear policy and plan for renewables beyond 2020 to continue, further threatening investment both on and offshore in Scotland.

**George Adam:** The Presiding Officer will be aware that the issue was a matter of debate at a recent Parliament day in Paisley. Does the minister agree that Scotland is ideally placed to make use of renewable energy? Given that 70 per cent of planned wind farms are in Scotland, what detrimental effects will the changes have on reaching our renewable targets?

**Fergus Ewing:** I am aware that Paisley is a hotbed of debate, especially when George Adam is about. To be serious, the UK Government has taken a grave decision that is perverse and irrational. To illustrate just how broad-based the campaign against it is, I can indicate that WWF Scotland and the Confederation of British Industry Scotland have united to express, in combination, their opposition. One would have thought that the WWF and the CBI would not be the most likely campaigning pairing, but the UK Government has managed to unite even the voice of industry and the voice of the environment in condemning the decision as a retrograde and extremely damaging step for Scotland and the whole of the UK.

**Murdo Fraser (Mid Scotland and Fife) (Con):** The minister knows that the UK Government's plans to reduce wind subsidies have been warmly welcomed by many affected communities across Scotland. The minister has held a summit for wind power developers. Why is he refusing a request to hold a similar summit for affected communities? Why is he listening to only one side of the debate?

**Fergus Ewing:** I regularly meet campaigners from communities—those who are against renewables, as well as those who support them, of whom there are a huge number. The Conservatives supported renewable obligation certificates at 0.9 as recently as 2013. What has changed since then, Presiding Officer? I am bound to reflect that although Mr Fraser is an ardent and somewhat extreme opponent of onshore wind, which, incidentally, is now cheaper than nuclear energy, some of his colleagues differ, because not only are they not against wind farms but they have some of their own.



## First Minister's Question Time

11:59

### Engagements

**1. Kezia Dugdale (Lothian) (Lab):** To ask the First Minister what engagements she has planned for the rest of the day. (S4F-02975)

**The First Minister (Nicola Sturgeon):** Engagements to take forward the Government's programme for Scotland.

**Kezia Dugdale:** Presiding Officer,

"Let's end the old Westminster way of doing things, which has caused misery for Scotland's most vulnerable. We have the opportunity to chart a different economic path—one which benefits the whole of society."

Those are not my words but the words of Michelle Thomson in the Scottish National Party's general election manifesto. They ring somewhat hollow now that we know that the Crown Office is investigating the economic path that that SNP MP went down.

Just eight months after her lawyer was struck off for his involvement in her property deals, Michelle Thomson was selected to be the SNP candidate for Edinburgh West. Will the First Minister tell Parliament whether anybody in the SNP—Nicola Sturgeon, SNP politicians or SNP officials at any level—was aware of the allegations about Michelle Thomson before they were printed in *The Sunday Times*?

**The Presiding Officer (Tricia Marwick):** I recognise that there is a lot of interest in the issue, but I remind all members that questions to the First Minister should relate to matters that are within her general responsibility. This is not a matter on which she is obliged to respond.

**The First Minister:** I am more than happy to respond, Presiding Officer. As I said yesterday, the SNP did not have prior knowledge of any of the issues. As I also said yesterday, I acknowledge that serious issues have been raised—serious points that, if they were to be proven, would be of significant concern.

It is important to stress that Michelle Thomson maintains that all her business dealings were within the law and strongly denies any wrongdoing. This may be an unfashionable view, but politicians, like anyone else in our society, are entitled to a presumption of innocence. I would have thought that a political party that has spent this week advocating a kinder politics would have been the first to acknowledge that fact.

A police investigation is under way into the matters. It is important that that investigation is

allowed to proceed without anyone seeking to prejudge its outcome. Michelle Thomson decided to step aside from the SNP while that investigation is undertaken. That is the right thing for her to have opted to do. It is now incumbent on the rest of us to allow that investigation to proceed to a conclusion.

**Kezia Dugdale:** The First Minister is right and I am not prejudging anything, but I ask her—*[Interruption.]*

**The Presiding Officer:** Order.

**Kezia Dugdale:** No, no. We need to look at the facts, which are undisputed. A tribunal issued a damning verdict—that is a fact. A lawyer was struck off—that is a fact. The Crown Office was made aware of concerns—that is a fact. Vulnerable families lost out. If the First Minister is saying that no one at any level in the SNP knew about the nature of Michelle Thomson's business dealings, does that mean that nobody asked Michelle Thomson?

**The First Minister:** Kezia Dugdale is right when she says that it is a fact that there has been a solicitors discipline tribunal. She is also right to say that it is a fact that a solicitor has been struck off. Neither of those things proves the guilt of any other person. I simply make the point that I made earlier on: however tempting it is for all of us in the hurly-burly of politics to prejudge issues, politicians, like everyone else, are entitled to a presumption of innocence.

I said yesterday and have said again today that the SNP had no prior knowledge of the issues. As I also already said, Michelle Thomson denies any wrongdoing. Therefore, I presume that she would maintain that there was nothing for her to have brought to the SNP's attention.

Our party vetting procedures are robust, but we keep them under review, as I hope every political party does. I also put it forward—again, I expect all political parties to acknowledge this—that, although we make all reasonable checks and ask reasonable questions, by definition, it is not reasonable to expect that we can investigate matters of which we have no knowledge.

It is ridiculous to suggest that any political party—the SNP or anybody else—would allow a candidate to go forward for selection knowing that there were serious problems about that candidate's integrity.

I repeat that a police investigation into aspects of these matters is under way. I, as the leader of the SNP, and as First Minister, will always act in a way that I think is appropriate, but I will be driven in doing so by facts, not by insinuation.

**Kezia Dugdale:** I am not asking the First Minister to comment on the specifics of a live investigation. [*Interruption.*]

**The Presiding Officer:** Order.

**Kezia Dugdale:** I accept that criminal matters are for the police. However, this is also a moral matter, which I would expect the First Minister to comment on. We have vulnerable families losing out for the financial gain of others, and vulnerable people being taken advantage of as their homes are snapped up at knock-down prices. Does the First Minister agree that profiteering from vulnerable families is just plain wrong?

**The First Minister:** Although Kezia Dugdale disagrees with me on a range of issues, as she is entitled to, I hope that she would accept that my commitment to social justice and helping vulnerable people is, like hers, beyond question. If there are matters that are proven to have been done wrong, those will be serious issues to which the SNP will respond.

However, I repeat that we are dealing with an individual who denies wrongdoing, who denies any breach of the law and who denies that she has acted improperly. I do not have access—neither, incidentally, does Kezia Dugdale—to all the information and circumstances that the police will be able to access. That is why it is important for all of us to allow the police to do their job. A police investigation is under way. It is appropriate that that investigation is thorough and robust and comes to a conclusion. The rest of us should be prepared to allow that to happen.

**Kezia Dugdale:** I asked the First Minister whether she thinks that profiteering from vulnerable people is right or wrong. This is a First Minister who claims that nobody in the SNP knew anything about this. I will take her word for that. However, now she does know. She knows that an elected representative in her party acted in a way that is unacceptable. [*Interruption.*]

**The Presiding Officer:** Order.

**Kezia Dugdale:** This is someone whom the SNP knew. Fiona Hyslop, already in trouble herself, spoke of Mrs Thomson's knowledge of business and her passion to make Scotland a better place. Angela Constance is on record as celebrating Michelle Thomson's compassion. Alex Neil said that Michelle Thomson

"demonstrated commitment to how business can be used to support social justice."

This is the First Minister who made Michelle Thomson her shadow business secretary. The First Minister has spent two days running away from Michelle Thomson as fast as she can. Is it not the case that, for the past two years, Michelle

Thomson has been at the heart of everything that the SNP stands for? [*Interruption.*]

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

**The First Minister:** One fact that Kezia Dugdale omitted from that long list of mudslinging was this one: that today, following the issues coming to light, Michelle Thomson is currently not a member of the SNP, because she decided, while the investigations are under way, to relinquish the party whip and, as a result of SNP rules, that means that her party membership is suspended. That was the right and responsible thing for her to do in the circumstances.

I have no intention, on a matter that I recognise is serious, of getting into a party-political exchange. I simply point out that it has not always been the case that, when Labour politicians have been accused of serious offences, they have found themselves outside the party while investigations have been undertaken.

I repeat what I said earlier. I have onerous responsibilities as First Minister and responsibilities as leader of the SNP. I will always seek to discharge those responsibilities to the very best of my ability, but I will do so on the basis of the facts that are before me. I will do that in this case and in every other case. That is the responsible and appropriate way for me to proceed.

### Prime Minister (Meetings)

**2. Ruth Davidson (Glasgow) (Con):** To ask the First Minister when she will next meet the Prime Minister. (S4F-02977)

**The First Minister (Nicola Sturgeon):** No plans in the near future.

**Ruth Davidson:** Let us try going through all that again.

**Members:** Oh!

**The Presiding Officer (Tricia Marwick):** Order, order.

**Ruth Davidson:** We already know that the Crown Office and Police Scotland were asked whether they would investigate the case in July last year. We know that the Law Society of Scotland raised it with the Crown Office in December; that journalists have been investigating it all summer; and that the police were called in nearly three months ago. Yet the First Minister is asking us to believe that nobody in the Scottish National Party—the party of Government—from the constituency in Edinburgh West right up to the chief executive and the leader herself knew anything about the case until they read about it in the paper almost two weeks ago. Does the First

Minister think that that sounds believable, or did somebody somewhere turn a blind eye?

**The First Minister:** I think that reasonable people listening to the answers that I am giving today will opt to believe that what I say is the case. Why? Because I would not stand here and say that it was the case if it was not.

Ruth Davidson says that we all knew that the Law Society and the Crown Office, and journalists all summer, were investigating the case. Did she know any of that before *The Sunday Times* published those stories? I certainly did not know those things until they came to light in the media. If Ruth Davidson is saying that everybody knew, presumably she would have known but, unless she is saying so, I take it that she did not. [*Interruption.*]

**The Presiding Officer:** Order.

**The First Minister:** The fact of the matter is that we had no prior knowledge of those issues. We now know about the allegations that have been made—I stress the word “allegations”—and there is now, as is entirely appropriate, a police investigation into them. I am happy and keen for the investigation to be thorough and robust, and at its conclusion I will take whatever action the facts determine to be necessary and appropriate. I think that it would be fitting for all politicians to take exactly the same approach.

**Ruth Davidson:** The First Minister is in charge when it suits her, but when the wheels come off she is constantly surprised by what is going on. She is surprised by T in the Park and by Government loans to Scottish National Party donors, and now she is surprised by this.

The First Minister cannot have missed the sort of business that Michelle Thomson was involved in and which she boasted about in public view on her own website. As the First Minister says that she has read the papers, she must have read the responses from the vulnerable people who are hurt and angry at the way in which they have been treated in order to profit the First Minister’s former business spokesperson.

This morning, Michelle Thomson’s solicitor said that she wants to come back to front-line politics as quickly as possible. Today, the First Minister has mentioned the police investigation a number of times. Let us put the police investigation to one side for a moment—

**Members:** Oh!

**The Presiding Officer:** Order.

**Ruth Davidson:** On the basis of ethics and integrity alone, will the First Minister welcome Michelle Thomson back to her front bench?

**The First Minister:** For the leader of the so-called party of law and order to stand up in a parliamentary chamber and say on extremely serious matters, “Let’s just put the question of a police investigation to one side,” frankly beggars belief. [*Interruption.*]

**The Presiding Officer:** Order.

**The First Minister:** There is no doubt whatsoever in my mind that if the allegations—again, I stress the word “allegations”—are proved to be correct, that will represent behaviour that I find completely unacceptable. However, I am not going to judge the outcome when somebody is maintaining their innocence and an investigation has not yet been concluded. It would be incredibly unfair and inappropriate for me to do that. I put it to the chamber and to the public that it is unfair and unacceptable for any politician to ask me to do that. However, when we have all the facts and when the investigation is concluded, I will take whatever decisions and actions I deem necessary. Those decisions will be driven by facts, not by insinuation and the attempts of Opposition parties to stir up political trouble and difficulty. That is the way that I will continue to proceed, and I think that it is the appropriate thing to do.

### Cabinet (Meeting)

**3. Willie Rennie (Mid Scotland and Fife) (LD):** To ask the First Minister what issues will be discussed at the next meeting of the Cabinet. (S4F-02976)

**The First Minister (Nicola Sturgeon):** Matters of importance to the people of Scotland.

**Willie Rennie:** Last week, the First Minister told me that general practitioners were happy with her plans for primary care but, this week, the chair of the Royal College of General Practitioners Scotland said that

“The Scottish government needs to act urgently”.

He said that the Government has “stalled” and is “sitting fallow” and that it needs to “stop prevaricating” and to deliver immediate action, not more “promises for tomorrow”. So GPs are far from happy. This morning, Shona Robison addressed the RCGP conference. What new and immediate action did she commit to?

**The First Minister:** I will give Willie Rennie some more up-to-date information about the views of GPs. As he says, Shona Robison has been making announcements today. Today, Dr Alan McDevitt, chair of the British Medical Association’s Scottish general practitioners committee has said:

“The removal of the QOF system is a significant step towards our vision for the future of general practice in Scotland.

This bold move by the Cabinet Secretary is part of the re-invigoration of General Practice in Scotland.

It will have a positive effect on practices, by reducing workload and bureaucracy, allowing GPs to focus on the complex care needs of their patients.”

That is the view of GPs, or at least the GPs' representative, on Shona Robison's announcement this morning. I could read out a lot of quotes from social media this morning from GPs in England who have listened to the announcement and who wish that they could come to Scotland to practise instead.

**Willie Rennie:** The First Minister talks about the removal of the quality and outcomes framework, but that is two years away, so it is hardly immediate action. Today—this is what is happening today—NHS Fife told me that it is having to step in to save Methil practice. Yesterday, we learned of pressures in Aberdeen for GPs at night-time, and NHS Dumfries and Galloway has issued a recruitment warning. The First Minister said that she was doing everything that she could, but 99 per cent of GPs said that it was not enough. The truth is that the Scottish Government has been caught napping. Ministers say that everything is fine; everyone else says that it is not. It is like the police all over again. I am trying to shake the Government and the First Minister out of their denial. When will she open her eyes and end the denial?

**The First Minister:** Willie Rennie says that I say that everything is fine, but I do not say that, which is why, last week, I gave a long list of initiatives, backed by resources, that Shona Robison and the Government are taking. However, the bulk of the answer that I gave to his earlier question was not made up of my words at all—they were the words of Dr Alan McDevitt, the chair of the BMA's Scottish GP committee. We are working closely and constructively with GPs to deal with recruitment challenges and the pressures that come from the changing demographics of our country and changing patterns of technology in how healthcare is delivered to ensure that we have a system and model of primary care that is fit for practice, not only now but into the years that lie ahead. We are determined that that will be backed by a modern fit-for-practice GP contract. That is exactly the action that people would expect the Government, working with GPs, to take. We will continue to do that and, as we do, I have no doubt that Willie Rennie will continue to carp from the sidelines.

#### “Clare's Law”

**4. Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP):** To ask the First Minister what progress the Scottish Government is making

in implementing the so-called Clare's law. (S4F-02990)

**The First Minister (Nicola Sturgeon):** It is right that people in relationships should have the opportunity to seek the facts about their partner's background if, for example, they have concerns that their partner has a history of violence.

The disclosure scheme for domestic abuse in Scotland, otherwise known as Clare's law, has proven successful in the pilot areas of Ayrshire and Aberdeen. I was delighted to announce in July the decision to roll out the scheme across the country. As of today, the scheme will be available across Scotland.

The scheme means that anyone who feels that they may be at risk of domestic abuse will have the right to ask for information about their partner. That sends a strong and unequivocal message that abuse is unacceptable and that we are committed to action that can help to reduce the risk of further harm.

**Christina McKelvie:** I thank the First Minister for that answer and the very welcome roll-out today. Does she agree with me and the many organisations that have campaigned for Clare's law that Police Scotland's disclosure scheme for domestic abuse is absolutely vital for defeating the scourge of domestic violence in Scotland?

**The First Minister:** Yes, I absolutely agree with that and I hope that everybody would. We want to stop domestic abuse in all its forms, and this scheme gives us another very important tool to help to do that. Put simply, it has the ability to save lives.

The scheme is not the only thing that we need to do to combat domestic abuse, which is why we are also taking forward a range of other measures to prevent and eradicate domestic abuse. In March, I announced another £20 million over the next three years to step up our work to tackle violence against women and girls. That money will be used to drive innovation and improvement within the justice system, tackle perpetrators of domestic abuse and increase public awareness.

I think that the collection of initiatives that this Government is taking, which I hope is backed by cross-party support, will help us in the years to come to make sure that we are not just taking a stand against domestic abuse but reducing the impact of domestic abuse in our communities.

**Rhoda Grant (Highlands and Islands) (Lab):** I, too, welcome the rolling out of Clare's law, but I am disappointed at the lack of progress made on the delivery of the equally safe strategy. The strategic board for implementation was supposed to have reported six months ago but has yet to meet. It will be sad if the first Government led by a

female First Minister was to go down in history as the one that had done least to tackle violence against women.

**Members:** Oh!

**The Presiding Officer:** Order.

**Rhoda Grant:** Will the First Minister take the opportunity to make progress on the implementation of equally safe this afternoon by backing my proposed amendments to the Human Trafficking and Exploitation (Scotland) Bill?

**The First Minister:** I have to say that I found aspects of that question by Rhoda Grant deeply depressing. I am a politician and I am as capable as any politician in this chamber—perhaps more capable than some—of being party political on a variety of issues, but this is an issue that we should not be party political on.

Given that I have just stood here and announced the start of the complete roll-out of a pioneering innovative scheme to help reduce domestic violence, and given that I have just talked again about the additional £20 million resource that I decided to invest in measures to reduce domestic violence, I think that for Rhoda Grant to come up with the comment that she made is not worthy of the member.

Rhoda Grant does raise an important point about the equally safe strategy, and she will be aware that we are making progress in taking forward the commitments in it. I am happy to write to her with a detailed report, and she will see some reference to the issue in the programme for government that was published just a few weeks ago.

This is an issue on which not only me but I think everybody across the chamber is determined to see real progress, so for goodness' sake, whatever else we may divide on, let us get together and say that we are going to tackle and eradicate domestic abuse in this country.

**Malcolm Chisholm (Edinburgh Northern and Leith) (Lab):** I welcome Clare's law and the other initiatives that the First Minister announced in her first answer, but I can tell her that at the cross-party group on men's violence against women last night there was some discussion about the specific offence of domestic abuse that was in the consultation paper. Can she tell us why there has been a delay in introducing such a law, and can she give a categorical guarantee that such a law will be introduced in due course?

**The First Minister:** I think that anybody who has listened to my comments on that law will have a very strong sense of my commitment to introducing it. There has not been a delay in introducing the law; what we have done is consult on the general principle. We are now moving

forward to consult on the specific wording of a new offence of domestic abuse. We are doing that because there are differences of opinion, as Malcolm Chisholm will know, given the sterling work that he has done on the issue over a long number of years. On something as important as this, the view is that it is vital that we get it right.

I believe that a specific offence of domestic abuse will allow us to capture more aspects of domestic abuse than the current law enables us to do. I am absolutely committed to introducing such an offence, but I am committed to doing it properly so that it has the desired effect of helping the many women who currently suffer abuse in forms that the current law is not well suited to dealing with.

#### **“Learning the Hard Way—Survey of Further Education Members” (Response)**

**5. Iain Gray (East Lothian) (Lab):** To ask the First Minister what the Scottish Government's response is to the findings in Unison Scotland's college staff survey report, “Learning the Hard Way—Survey of Further Education Members”. (S4F-02978)

**The First Minister (Nicola Sturgeon):** The progress that we have made in recent years through college reform is largely due to the commitment and professionalism of college staff across Scotland. I take this opportunity to express my gratitude to all our college staff for the role they play in the success of our colleges.

Our priority is to build on that, ensuring that staff continue to be well led and supported. It is important to understand properly the views that staff express generally and, in particular, through staff surveys such as the one that Iain Gray has commented on. The Cabinet Secretary for Education and Lifelong Learning will discuss the survey's findings at her next meeting with Unison Scotland and will commit to taking forward whatever needs to be done to address the concerns that have been expressed in the survey.

**Iain Gray:** The survey findings are not hard to understand. They show that 90 per cent of staff think that colleges are underfunded, 64 per cent think that college services have declined, 77 per cent do not expect them to improve in the next year and 69 per cent blame the Scottish Government. Rather than expressing her gratitude to our hard-working college staff, does the First Minister not think that she should apologise?

**The First Minister:** I will continue to take the view and approach that I think is right and work with our college staff to make sure that our colleges continue to deliver excellent education for our young people. As I have said previously, when we look at resource budgets, we can see that, in

cash terms, this Government is spending more than Labour did when it was in office. We will continue to make sure that our spending decisions give priority to education, given the importance that we attach to it.

I also point out, as I have done many times before, that in every one of the past three years we have exceeded our target to maintain the number of full-time equivalent places. The number of full-time students under the age of 25 has increased by 15 per cent, the number of full-time students who are over 25 is up by 25 per cent and the number of women who are studying full-time courses is up by 15 per cent.

We are also investing heavily in the college estates. More than £530 million has been invested in the college estate since 2007.

Those are the commitments that we will make to making sure that we have a quality college education sector. The staff who work in that sector are vital to that commitment so we will continue to listen to them, to respond to them, and to work with them to deliver further improvements.

**Roderick Campbell (North East Fife) (SNP):** Earlier this year, Audit Scotland's report "Scotland's colleges 2015" noted:

"The SFC met students as part of its six-month post-merger evaluations to discuss issues such as changes to learning and teaching, enrolment and access to the college. Feedback indicated that there had been little adverse effect on students."

Is the First Minister aware of whether that remains the position?

**The First Minister:** I am certainly aware of the Auditor General's report, which was published in April. It is, I think, the most current evidence-based assessment of the state of the sector, and it draws on surveys and other feedback, indicating that our reforms have had no adverse impact on students.

That is backed up by the evidence that shows that more full-time students are achieving recognised qualifications. The number of students who are achieving higher national certificates and higher national diplomas has increased by more than 20 per cent since 2007. There has been a 34 per cent increase in the number of students progressing from college to university with advanced standing since 2009-10.

The proof of the pudding is therefore in the eating. We now have a college sector that enables more young people to get the qualifications that they need either to go further in education or to go into the workplace. That is perhaps one of the reasons why we are seeing youth unemployment at a much lower level now than it has been in the past.

## Business Innovation

**6. Mark McDonald (Aberdeen Donside) (SNP):** To ask the First Minister what steps the Scottish Government is taking to increase business innovation. (S4F-02982)

**The First Minister (Nicola Sturgeon):** On Monday this week, I was pleased to announce that a new innovation fund totalling £78 million will be available to stimulate business innovation. The fund will comprise £31 million of European regional development fund money and will be matched by £47 million of funding from Scottish Enterprise, Highlands and Islands Enterprise and the Scottish Further and Higher Education Funding Council.

The fund will enable a range of key activities that are aimed at increasing the number and level of companies that are investing in innovation to stimulate greater business and university collaboration. It will also supplement the work of our innovation centres, with the particular aim of shortening development cycles for small and medium-sized enterprises that are creating new products and services.

**Mark McDonald:** Will the First Minister advise how the fund will work alongside the progress that is being made on the Scotland can do strategy? Does she agree that it is important that we see Scotland as an attractive place not just to do business but to start businesses?

**The First Minister:** I absolutely agree. I want Scotland to be seen as a great place—the best in the United Kingdom—to do business, set up businesses, expand businesses and invest in businesses.

Mark McDonald mentioned an important component of our strategy: Scotland can do—a title I love—is a route map to our becoming a world-leading, entrepreneurial and innovative nation. I know that Labour does not like the idea of Scotland can do, but I like it a lot. [*Interruption.*]

**The Presiding Officer:** Order.

**The First Minister:** Since the launch of the strategy in November 2013 we have invested in entrepreneurial talent and expanded our range of business innovation support tools. We are also building a £124 million network of innovation centres, which will enable industry to make best use of our world-class university research and expertise, and we will showcase Scotland's fantastic capacity for innovation through our planned network of innovation and investment hubs in Dublin, Brussels and London.

In every sense, we as a Government are putting our confidence in Scotland, which is probably why Scotland is putting its confidence in this Government.

**Gavin Brown (Lothian) (Con):** How much of the £78 million that was announced on Monday is new money?

**The First Minister:** If Gavin Brown had listened to my answer to Mark McDonald, he would be aware that the money that I announced on Monday is a combination of money from the European regional development fund and money from our enterprise agencies and the Scottish funding council. It is additional money, which will augment the work that the agencies continue to do. It is estimated that it will enable our enterprise agencies to work with an additional 1,000 companies to help and support them to become more innovative.

The message that we want to send out is that, if there are big ideas out there in our companies, we want to help those companies to bring them to fruition.

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

## Protection of Asylum Seekers and Refugees

**The Deputy Presiding Officer (Elaine Smith):** I ask members and guests of the Parliament in the gallery who are leaving the chamber after First Minister's question time to do so quietly. The Parliament is still in session.

The next item of business is a members' business debate on motion S4M-14081, in the name of James Dornan, on taking action to protect asylum seekers and refugees across Europe. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament recognises the work of charities and organisations across Scotland, including the Greater Pollok Integration Network and Glasgow the Caring City based in the Glasgow Cathcart constituency that have supported asylum seekers and refugees in Glasgow for many years; notes the continuing forced displacement and refugee crisis with people seeking asylum or refuge from places including Syria, Libya and Eritrea arriving daily in Europe; appreciates that the numbers of people reaching Europe is dwarfed by people seeking refuge in neighbouring countries including Jordan; notes the deaths of at least 70 asylum seekers in the back of a truck close to the Austrian border; notes the comments of the Austrian interior minister, Johanna Mikl-Leitner, who said that "the tragedy again underlined the urgent need for common EU policies to protect migrants and to combat people traffickers"; considers the European response to date to have been lacklustre and the position of the UK Government to continue to stand on the sidelines to be senseless and untenable; believes it imperative that countries across Europe come together and put in place a European strategy to deal with the crisis both with people coming via the Mediterranean and those waiting in Calais; notes recent comments by Angela Merkel and Francois Hollande looking to discuss such a strategy at the next meeting of the European Commission in October 2015, and further notes calls on the UK Government to join them in opting-in to the EU resettlement programme and taking other positive steps to assist across the continent and to stop playing politics with the lives of so many people seeking refuge from unimaginable hardship in their home countries.

12:33

**James Dornan (Glasgow Cathcart) (SNP):** I wanted to start by welcoming Ross Galbraith from Glasgow the Caring City to the Parliament, but I have a feeling that he is stuck outside the chamber, waiting for people to leave. I know that he is in the building. I also put on record my thanks to Graham O'Neill and the team at the Scottish Refugee Council for preparing a briefing and for all their assistance with this debate. Of course, I also thank all the members who signed my motion and those who will participate in the debate.

I wrote the motion some time ago after hearing about the deaths of 70 asylum seekers in the back

of a truck, close to the Austrian border. The event hit me hard. I was sure that that horrific incident would be the straw that broke the camel's back. I was sure that a tragedy on such a scale would force the hands of Europe's Governments, which would start to work together constructively to offer refuge and asylum to people who are fleeing the unimaginable hardship of war in their countries. I was delighted to hear on Tuesday that the main suspect in that horrible incident was to be extradited from Bulgaria.

The involvement of people traffickers in those deaths, as well as countless others, was another thing that I believed would jolt the European Union into action, and I put the remarks by Austrian interior minister Johanna Mikl-Leitner into the motion to endorse the idea that we must have a plan to deal with the human smuggling and trafficking that happen wherever there is human misery. Just imagine that your life is so horrible—so full of fear and hopelessness—that you put yourself and your family in the hands of those dealers in death. Coincidentally, part of this afternoon's business is stage 3 proceedings on the Human Trafficking and Exploitation (Scotland) Bill, which is very timely indeed.

However, the tragedy did not turn the tide in the way that I hoped it would when I wrote the motion—that came a few days later, with the heartbreaking and tragic image of wee Alan Kurdi on the beach. I will take some time to get over seeing that image, and I suspect that many others will too.

The public response to that image was overwhelming, from the donations that poured in from all parts of Scotland, to the vigils, fundraisers and forming of groups such as Scotland supporting refugees, and the Scottish Government and Scottish Refugee Council website, Scotland welcomes refugees. The reaction from the Scottish public, the third sector, local organisations and most politicians has been swift and unequivocal: Scotland welcomes refugees, and we will do all that we can to make them feel welcome, to support them and to assist them become part of our communities.

**Alex Salmond (Aberdeenshire East) (SNP):** I congratulate James Dornan on his members' business debate. In the House of Commons, I tabled a motion that was similar at its heart to his motion: it said that, as a country, we had to accept a joint responsibility for refugees arriving in Europe and help those in the camps in the middle east. Although the motion got substantial cross-party support in the House of Commons, it was defeated by the Government.

Does James Dornan agree with me that if his motion, which is the same at its heart as the motion that was tabled in the House of Commons,

was able to be voted on in this Parliament, it would carry by a substantial majority?

**James Dornan:** It will come as no surprise to anybody that I agree with every word that Mr Salmond said—it is a habit that I have got into over a number of years. If members listen to my speech, they will hear me come on to say pretty much exactly what Mr Salmond said.

In my own constituency of Cathcart, the work of Glasgow the Caring City has been nothing short of awe inspiring. A few weeks ago, I was contacted by the Rev Neil Galbraith and Ross Galbraith to discuss and see how I could assist them with a shipment of donations that they were putting together to go to the Balkans to support the refugees who at that stage were attempting to enter the EU through Hungary.

I immediately contacted Martin Armstrong, the chief executive of the Wheatley Housing Group, to see whether he would be able to offer any assistance. I was delighted when he said that the group would give a cash donation to help with shipping costs and put a call out to its 2,500 staff, asking them to donate clothing for the refugees. Four days after the call went out, Ross and I went to pick up the aid donated by the staff. I was stunned that in that short period of time they had donated 2 tonnes of clothes. Huge thanks are due to all those wonderful people who gave so generously.

Yet another example of Glasgow's huge heart occurred on that visit. We were loading the van when an elderly gentleman passed us. He stopped to ask what we were doing, and when it was explained to him, he walked on—and then turned around and offered us £20. I do not mean any disrespect—the exact opposite—but I doubt that he could easily afford to give that money, yet he would not be dissuaded. He wanted to do his bit. Scotland's response to the tragedy has been full of such stories. The Rev Neil Galbraith told me of a young boy in his congregation who donated a red hoodie. In its pocket was a letter that the young boy had written for the recipient of the hoodie. That letter and the hoodie are heading to the Balkans, and the recipient will see that, in Glasgow, there is a wee boy who wants to help.

Earlier this week, I was pleased to join the Minister for Europe and International Development, Humza Yousaf, on a visit to see the great work that the volunteers of Glasgow the Caring City are doing. Their hard work and dedication have ensured that more than 70 tonnes of clothes and soap are ready to go to the refugees. That shipment will be sent to the Balkans early next week. I am excited to say that I will be in Serbia towards the end of next week to meet the mayor of Novi Sad and see for myself



the difference that Scots' generosity will make to refugees fleeing the horrors of their homeland.

Of course, the work done by charities across Scotland to help refugees where they are stranded across Europe and further afield is only part of all this. We have to be prepared to help when refugees get here. I have been struck by the number of people who have popped into my office offering to help refugees when they arrive. One couple have a spare room that they can offer; and a woman who teaches English as a foreign language wanted to volunteer her time. That is why I am so supportive of the Scotland welcomes refugees website. We need one go-to place for people both offering and requiring support. The website [www.scotlandwelcomesrefugees.scot](http://www.scotlandwelcomesrefugees.scot) is that place.

This is not a motion for attacking the UK Government, but I would be derelict in my duties if I did not take the opportunity to urge it to rethink its policy on the crisis. Although I welcome the money that it is spending and its commitment to take in refugees—even if it is a miserly 20,000 over five years—its response so far is completely out of step, certainly with what we are seeing in Scotland and in many parts of Europe.

There is a further meeting of the European Commission in the coming weeks. The time has long come for the UK to step up to the plate and offer meaningful long-term assistance. In Scotland, we have the room, the resources and the political and public will to help. I hope that, following that meeting, a broader European strategy can be found that allows us to do even more than we are able to do just now.

Periodically, there is a tragedy that plucks the public's heart-strings more than others do. That may be because it involves children, because of a horrible photo or video, because of its longevity and hopelessness, or simply because of the pure scale of the horror. The crisis that we are discussing has all those things.

The long-term aim must be to make the middle east a safer place, to allow people to return to their homes in safety. Despite right-wing propagandists' claims, that is what most refugees want to do. Until then, we as a Parliament, as a Government and as people have to step up to the plate to help in every way that we can to make life that little bit easier to bear. So far, Scotland has done that and more.

I again thank all the members who signed my motion and those who are taking part in the debate. I thank the Scottish Parliament for giving me the opportunity to raise the issue and the Cabinet Secretary for Culture, Europe and External Affairs for being here to respond to the debate. I hope that, just by having this debate, we

will help to keep the plight of the refugees full square in the public glare.

12:41

**Malcolm Chisholm (Edinburgh Northern and Leith) (Lab):** I congratulate James Dornan on bringing this most important issue to the chamber, and I welcome the opportunity to recognise the many great charities that work across Scotland to welcome and support refugees and asylum seekers. People who arrive on our shores are fleeing unimaginable hardship and conflict, and humanity calls on us to see them not as statistics, but as individuals—women, men and children—who have suffered much.

We see that humanity represented in the work of charities. I pay tribute to the many charities that are based in the Edinburgh Northern and Leith constituency that offer advice, teach English, enable training and generally help people to settle down in their new community. They include the Multi-Cultural Family Base, which is based in Leith; Saheliya, which is for black and minority ethnic women and girls; and the living in harmony group, which is in north Edinburgh. Those groups recognise that to come to a new country under any conditions is daunting, but to arrive in search of sanctuary from trauma requires extra help, emotional support, counselling, practical advice and, most often, quite simply a friendly face.

We all have a role to play in assisting with the crisis that refugees face in making the journey from Syria in particular. The Scottish Refugee Council provides a first response for all newly arrived refugees in Scotland, and it has put measures in place that allow the public to fundraise and donate. It provides links to a new online hub for people in Scotland to register their support and find out more about Scotland's response to the refugee crisis. The [scotlandwelcomesrefugees.scot](http://scotlandwelcomesrefugees.scot) website is fantastic. It includes details of how to donate, with links to all the charities that currently seek donations and details of how people may offer practical support. It allows people to log their details along with other expressions of support for future refugees, and there is a guide for how to host fundraising events.

There is such an appetite for getting involved, sparked by the realisation of the full extent of the crisis in the shocking scenes from traffickers' boats and the beaches of Lesbos. The CalAid phenomenon, which has seen dozens of shipments of clothing and essentials transported to Calais, is testament to that appetite to help and effect a positive outcome for refugees.

In the debate in September, all parties—with the exception of the Conservative Party, I am afraid—

called on the UK Government to do more and to increase the number of refugees who are allowed into the UK. It also called for Scotland to welcome far more than the initial 1,000, and for us to be allowed to offer a future with inclusive opportunities. The measures that are required need to reflect the extent of the crisis, and nothing short of an EU-wide strategy will suffice.

According to the United Nations Office for the Co-ordination of Humanitarian Affairs, as of September 2015, more than 12.2 million Syrians living within the country's borders need assistance, 7.6 million are internally displaced, and 4.1 million have been forced to flee abroad. Most have settled in overpopulated and underresourced refugee camps in Lebanon, Jordan, Turkey, Iraq and Egypt. The scale of the crisis in those areas is unprecedented. With the harsh winter approaching, humanitarian organisations such as the office of the United Nations High Commissioner for Refugees have already started to voice their concerns about resourcing.

The solution to the crisis cannot be met while party-political agendas are being pursued. A cross-party consensus in this country and a cross-border effort that takes a strategic approach across Europe are required.

Vital talks are coming up this month in which the UK must play an active part. We should be at the table, talking about how we will play our part in the global mission to ease the crisis of refugees who are fleeing war. The motion states that it would be "senseless and untenable" for the UK to continue to stand by on the sidelines, and I whole-heartedly agree. As a country whose repeated interventions in the region may have had some impact on its stability, we have a moral obligation to take on our full quota of refugees. It should be seen as our obligation as a member state, in solidarity with others in the EU who are under increasing pressure. We have the resources, infrastructure and willpower. What we require now is leadership.

12:45

**Christian Allard (North East Scotland) (SNP):**

I thank James Dornan for bringing to our attention again the refugee crisis, which is so important. I will use a word from another language to say thank you to James Dornan: shukran, which is an Arabic word. Why do I want to say shukran? We heard it last night on the BBC. I thank all the journalists who go across Europe to bring us the images and testimonies of what is happening in the movement of desperate refugees. I was struck by the fact that when a BBC journalist helped one of the refugees, they very politely answered, "Shukran." We need to understand that refugees are people just like us. Before they left Syria, they

were living just like us. It is reminiscent of what happened in world war two. Refugees are people just like us.

I thank the people of Scotland, too. James Dornan talked about the huge heart of people in Glasgow. We have a huge heart in the north-east, although maybe we are better at hiding it. Fantastic work is being done by groups such as Aberdeen solidarity with refugees. There is also the Dundee refugee support group, which was originally started to take donations to the Calais camp when we began to hear about the refugee crisis.

At the beginning of the year, I wrote to the French President to ask about collaboration between the French Government and the UK Government. There was an opportunity at that time to address the refugee crisis. Lorry drivers spoke to me—I used to work in the haulage industry—to say, "This is not what we usually see in Calais. This is different—something is happening."

The response of the UK Government to the refugee crisis in Calais was an example of exactly what not to do. The UK Government's bad example is maybe being followed by some European countries—we heard that last night on the BBC. The UK Government started it. It did not respond properly to the crisis. The erection of the fence was nothing short of a disgrace.

I will give members another testimony. A mother whom I spoke to in Aberdeen was pleased to tell me about the work of her daughter, who is helping in a refugee camp in Jordan. I told the mother to ask her daughter to write to me, if she wanted to give me her testimony of what is happening there. She wrote and told me a lot of things about the situation.

That brings me to the Scottish Government's approach and the direction that it is taking, and particularly to what the First Minister said about it not being an either/or choice between helping refugees in the middle east or helping refugees across Europe. We need to do both—that is very important.

**Bruce Crawford (Stirling) (SNP):** Christian Allard may be aware that on 22 September the EU agreed to take in 120,000 more refugees who are currently in countries such as Italy and Greece. The UK and Denmark absolved themselves of that responsibility. Does he agree that that was utterly wrong of the UK?

**Christian Allard:** I agree with my colleague absolutely. The UK Government has given an example not to follow, as it did at the start of the crisis.

The young lady whom I talked about described a number of families and individuals in her correspondence to me. On behalf of all those people, she asked us to help. It is so important that we do so. She wrote to say that despite the fact that aid is being given out, including money from the UK Government, it is nowhere near enough. Many women whom she spoke to came through years ago. Some of them were pregnant at the time and now have children who were born in Jordan. She explained the people's situation by saying:

"They are living in awful conditions with poor access to basic water and sanitation facilities, and don't have enough to eat or afford rent, many of them are evicted and indeed are begging or selling themselves on the streets for money".

That is what it is about. I thank James Dornan for securing the debate and I thank the people of Scotland for responding in the way that they have done.

12:50

**Jamie McGrigor (Highlands and Islands) (Con):** I congratulate James Dornan on securing time for such an important debate. The refugee crisis—the worst that we have ever seen—which has been unravelling before our eyes has affected us all in one way or another and it is important that we debate what the right action is in order to protect those who are most vulnerable.

This morning, the European and External Relations Committee hosted a round-table session with experts to shed more light on the crisis and to suggest what Scotland can do to help.

I praise the many individuals, charities and local authorities in Scotland that are already working with asylum seekers and refugees to alleviate suffering or stand ready to do so when they arrive in this country. That includes local authorities in my region of the Highlands and Islands. Indeed, Morag Brown of Argyll and Bute Council attended the committee meeting this morning. We are a very civilised nation and I have no doubt that we will make the refugees welcome in our communities, as we have done in the past.

I am disappointed that the motion clearly seeks to shame the UK Government. I reject that notion completely for a very simple reason. Over the past months, the horrendous incidents and accidents with refugees being suffocated in the back of trucks or drowning in the Mediterranean have caught the eyes of the world, and rightly so. Many of those refugees find themselves in the claws of human traffickers. With the UK system of going to the camps surrounding Syria and giving asylum to those who are most vulnerable, we are not only undermining the human traffickers but making it

harder for individuals with malicious intent to enter the UK.

We, the UK, are the world's

"second-largest bilateral donor of aid to the Syrian conflict"

and Scotland is part of that. We have provided more than 18 million food rations and given 1.6 million people access to clean water. We are providing education to a quarter of a million children and we will increase that number.

The UK Government announced a further £100 million in aid last week, taking our total contribution to over £1 billion. That is the UK's largest-ever response to a humanitarian crisis. I would not call it standing on the sidelines. We should be proud of that and proud of the fact that the UK is one of the only major countries in the world to honour its commitment to spend 0.7 per cent of its gross domestic product on foreign aid.

The UK is, in my opinion, lucky not to be a member of the Schengen agreement. The refugee crisis has showcased many of the weaknesses in the agreement and in the European response to the crisis. The principle of no internal borders relies on the enforcement of an outer border to ensure that Europe remains secure. That system has failed catastrophically and poses a significant security risk, and many questions, to EU citizens and refugees alike, as the gaps in the outer border will have been exploited by those who intend harm.

This refugee crisis is heartbreaking and upsetting—I know that we can all agree on that—but it is a direct consequence of the political situation and violent wars. Therefore we should all surely concur with the UK Government and the international community that we must adopt a comprehensive approach that tackles the causes of the problem as well as the consequences. The greatest contribution that the UK can make is to work to end the conflict altogether and we must continue to seek a peaceful settlement that enables a political transition and an end to violence. However hard that might be and however far away from that position we might be now, we have to go down that path. We must take a similar approach towards Libya and other states where political violence and turmoil are harming the people of those countries and driving this terrible refugee crisis.

12:54

**Sandra White (Glasgow Kelvin) (SNP):** Like others, I spoke in the debate on the refugee crisis that we had just two weeks ago, but unfortunately nothing has changed; people are still being washed up on shores. That is why I thank James Dornan so much for bringing this issue to the

chamber again for discussion. I also very much thank the Rev Neil Galbraith and Glasgow the Caring City for their work, as well as many others whom I will go on to mention.

That said, I cannot let Jamie McGrigor's speech pass without comment. As I said in the previous debate, these wars have been created by the west. Of course we want an end to the conflict, but we are morally and duty bound to protect and help these people. Mr McGrigor has talked about stopping the conflict, but we hear that the House of Commons is going to bomb Syria once again. He should look to his own party in Westminster with regard to what is happening in the unfortunate parts of the middle east.

Who are we to pick and choose who comes to our shores? I ask that question constantly. Are we saying that we will pick those in the refugee camps in Lebanon, Turkey and other areas, but not open our arms to the people who are languishing in Calais or in Lesbos and other parts of Greece? Who are we to say that we can pick and choose who can come to our country and whom we should help? I find that a pretty obnoxious thing to say.

I want to look at more positive aspects and to thank the many people throughout Scotland who have offered help. This week, I attended two events. On Monday, I was at the Yesbar for a comedy night organised by Suzanne McLaughlin and many others for refugees and Glasgow the Caring City, and we raised more than £2,000. It was absolutely fantastic and a great fun way to raise money for refugees.

On Tuesday night, I and nearly 400 members of the public attended a meeting that was organised by the Glasgow campaign to welcome refugees and many others, including the Scottish Trades Union Congress, at the Charles Wilson building in the University of Glasgow. At that meeting, we heard harrowing first-hand accounts from people whom I mentioned in the previous debate and who had actively helped in Lesbos and Athens. Those people, who included Margaret Woods, Pinar Aksu and others, provided accounts of what they had seen and showed us slides—it was very moving. They told us about watching two boats coming in and rushing to help; a baby was handed from the boats to one of the young girls who was helping Margaret and Pinar, but the baby was so cold that no one knew whether she would survive. Thankfully, she did, and we saw pictures of her being fed and so on. These were heart-warming stories of ordinary people going out of their way. The 400 people in that audience raised more than £1,000; that money is going straight to Greece to help people on the ground, and a truckload of clothes and, I believe, £500 are being sent to help with the situation in Calais.

That is the real story. These people are on the ground, seeing the suffering and wanting to help. They do not care where the refugees come from; they see them suffering and dying daily. I know that Greece has had its problems, but we heard evidence that people arriving on boats, starving and needing water, were being charged €2 for a bottle of water by some people. Capitalism lives. Obviously refugees should get that water for free.

I thank James Dornan once again for enabling us to talk about this issue. This is all about people on the ground wanting to help others.

12:59

**Anne McTaggart (Glasgow) (Lab):** I thank James Dornan for securing the time in the chamber to debate what has become Europe's worst refugee crisis since the second world war. The whole country is moved by this on-going crisis. People are taking desperate measures to cross the Mediterranean from places such as Syria and Libya, and more than 2,700 lives have been lost so far this year in unsuccessful missions to reach Europe in order to seek asylum or refuge.

I am proud that residents in my region, Glasgow, are doing what they can to help. Glasgow has the largest population of asylum seekers outside London. Glasgow's record on providing refuge is the result of the great work of charities and other organisations across the city and of Glasgow City Council.

As I mentioned in the debate that we had a couple of weeks ago, Glasgow City Council has provided homes to 55 Syrians who have fled the war in their home country. It has also agreed to take in more and outlined its belief that that is the right thing to do. I was delighted to see the success of the Glasgow sees Syria event in George Square, which included drop-off points for food donations from members of the public, and to hear the council's leader, Frank McAvetty, call on the Government to accept more refugees. The University of Glasgow is also to be congratulated on introducing a series of measures to support refugee students, including fee waivers and the extension of its talent scholarship scheme to support refugee undergraduate and postgraduate students.

However, we need to do more. We need to do more as UK citizens and as European citizens. The European Union was founded on the values of respect for human dignity and the protection of human rights. Therefore, we need to establish an agreement between the European member states and take more positive measures to tackle the crisis of people putting their lives at risk to get to Europe. We also need to address the plight of

those who are suffering in Calais and those who are displaced in their own countries.

Earlier this week, the President of the European Council spoke at the UN General Assembly to give reassurance that Europe is as committed to its values and objectives now as it has ever been. Every one of us needs to ensure that we are committed to those values and objectives as members of the European Union.

However, the issue is a shared responsibility among all states, as no single country can solve a crisis of this scale. The responsibility to solve the crisis does not lie just with Europe. It is a global crisis that requires a global response. The international community must come together to provide a global response to the on-going refugee crisis, as we cannot turn our backs on people who are seeking refuge from war in their home countries.

13:03

**Jim Eadie (Edinburgh Southern) (SNP):** I, too, congratulate my friend James Dornan on bringing the debate to Parliament. Like other members, I appreciate the heartfelt way in which he urged all of us, within and outwith the chamber, to take action to protect asylum seekers and refugees across Europe.

As others have highlighted, the debate recognises the fact that we are witnessing the largest mass movement of people since the second world war. According to the Scottish Refugee Council, 60 million women, children and men have been displaced as they flee persecution, conflict, war, violence and human rights violations. Half the 60 million displaced people are women and girls. Some 86 per cent of the world's refugees are hosted by developing regions. Pakistan, Lebanon and Turkey alone host three in every 10 of the world's refugees.

The debate allows us to highlight the widespread public concern across Scotland about the global humanitarian and refugee crisis. All of us have been touched and moved by the harrowing images that we have seen in our newspapers and on our television screens. The public's generosity has been seen in myriad ways as people reach out to offer assistance. Only last week, I met the teachers and pupils of South Morningside primary school, in my constituency, who were so moved by the plight of refugees that they raised more than £1,000 in one week. I pay tribute to them for their outstanding efforts.

Another example of the outpouring of public concern has been the response of the churches and faith-based organisations to the humanitarian and refugee crisis. Pope Francis has called on every Catholic parish community in Europe to offer

support to refugee families who are fleeing to our continent from the middle east. I was delighted to learn that those at St Columba's parish church in Newington have said that they will welcome a refugee family into their community and want to do all that they can to help.

I take the opportunity to thank all the churches for the moral leadership that they have shown in demanding that Governments and people do all that they can to welcome refugees and asylum seekers to this country. Philip Tartaglia, the Archbishop of Glasgow and president of the Bishops Conference of Scotland, wrote to the First Minister on 10 September to say:

"In support of your response and inspired by Pope Francis, I write to offer the assistance of the Bishops' Conference of Scotland in any plans that may emerge in the months to come to support and assist the new arrivals to our country. Many of our parishioners hail from families with a history of fleeing conflict and poverty in the 19th and 20th centuries to find a new home in Scotland. In the subsequent decades we have established an effective network of parishes that exist to promote the Christian faith and thus contribute to the common good."

However, the generosity of the public response to the humanitarian crisis has not been matched by the UK Government accepting an appropriate number of refugees from the refugee camps. The UK Government established the Syrian vulnerable persons relocation scheme to resettle vulnerable Syrian refugees across the UK but, to date, only 216 people have been resettled in the UK. For that reason, I agree with the Edinburgh Trade Union Council, which states:

"We consider that the UK Government's response to the crisis is woefully inadequate."

The UK Government must do much more to meet our obligations to the most vulnerable people on the planet.

The UK Government's greatest failure has been its determination to stand aside from the European Union's relocation scheme. If the European Union is committed to taking 160,000 refugees, should the UK not play its part in accepting its share of those refugees to our shores? The UK is a permanent member of the United Nations Security Council, whose actions have destabilised the middle east as a region, and the UK has a moral obligation to do much more than it is committed to doing.

Scotland, as a national community and as a society, stands ready—as we have always done—to open our doors and our hearts to welcome refugees into our country. Refugees and asylum seekers have enriched our society culturally, economically and socially over many decades. We look forward to playing a role, as part of a co-ordinated Europe-wide response, in responding to the crisis and in helping people to rebuild their

lives. I look forward to welcoming those new Scots to our country and to their making a positive contribution to Scotland in the years ahead.

13:08

**The Cabinet Secretary for Culture, Europe and External Affairs (Fiona Hyslop):** I thank James Dornan for lodging the motion for debate. The issue is not new, but the sheer scale, importance and impact of the crisis demand public and political responses locally, nationally and internationally.

As we have heard, the crisis has also generated very personal responses. I was struck by James Dornan's remarks about the young boy in the red hoodie. That response has been felt across our constituencies and among our constituents. We heard from Christian Allard, Sandra White, James Eadie and Anne McTaggart about the personal contributions that people have been making in their communities. However, that is not to say that there is unanimity throughout the entire population about the moral imperative to act, which makes it all the more important that we continue to make the case for action.

**Bruce Crawford:** The cabinet secretary will accept that Scotland has responded to the refugee crisis with remarkable heart and direction, because we want to do something. However, the point that she just made about the longer term is important, especially with regard to what integration measures will be available to raise awareness not just in the communities where the refugees will potentially be based, but throughout Scotland. Does she agree that we need to raise awareness among the people of Scotland of the sheer scale of the challenge that those people face?

**Fiona Hyslop:** That is a very important point. We are in this for the long term; we must all be prepared for that. The facts that more than 1,000 offers of help have been received by the [www.scotlandwelcomesrefugees.scot](http://www.scotlandwelcomesrefugees.scot) website, and that all 32 of our local authorities have pledged their support to bring Syrian refugees to Scotland and to integrate them into our communities, are testament that Scotland stands willing and is able to step up to the plate to help—none more so than the organisations that are referred to in the motion.

My colleague Alex Neil, the Cabinet Secretary for Social Justice, Communities and Pensioners' Rights, made clear in the debate on the refugee crisis on 15 September that the Scottish Government should be doing what we can to help people who have made their way, at enormous risk, to mainland Europe. The First Minister and the Minister for Europe and International

Development reiterated that message when they met Philip Hammond, the Secretary of State for Foreign and Commonwealth Affairs, on 21 September. The Deputy First Minister delivered the same message in Brussels on the same day.

Although asylum remains reserved to the UK Government, the Scottish Government believes that asylum and refugee resettlement into the EU from third countries are areas that require multilateral and collective EU action. The EU must take collective responsibility and exert the leadership that Malcolm Chisholm called for. For my part, I have regularly raised the need for solidarity and support for the rescue of, and provision of refuge for, people from the southern borders of the Mediterranean since the Lampedusa tragedy many years ago.

The Scottish Government remains firmly committed to pressing the UK Government to sign up to measures that will protect vulnerable refugees from harm, and ease the burden on the countries that are most affected—in particular, by participating fully in proposed EU action, for example on relocation and resettlement.

As we have heard, the UK Government did not vote in the emergency EU Justice and Home Affairs Council on the crisis on 22 September, because it is continuing to refuse to opt in to the relocation scheme. It was initially not prepared to take more than a handful of Syrian refugees, so we know that it can change. However, political energy and effort should be spent on supporting the people who are in need, and should not be not soaked up by seeking to shift the UK Government's intransigence.

I am not sure whether Jamie McGrigor meant to do this, but he seemed to indicate that the UK's security self-interest was driving its response, and not sympathy, solidarity and support. That is of serious concern.

At the meeting on 22 September, EU members agreed to relocate 120,000 of the desperate people who have reached Europe. The Scottish Government believes that the UK should take a share of the group, as well as those from Syria. It is, of course, welcome that the UK Government has increased its aid to camps in the region to £1 billion, which makes it the second-largest donor there. We do not dispute that there is an urgent need to provide aid as well as to work internationally to resolve the circumstances that are driving the mass movement of humanity, but it is not an either/or situation—we can make sure that the region is supported and sign up to relocation in the EU. I think that that is what this Parliament wants. We do not agree that the UK is doing all that it can, and we will continue to press home that message.

There is much in the EU's agenda that the Scottish Government can support, including its focus on taking action to save lives in the Mediterranean, the recognition that migration to Europe is a complex global issue with its roots in third countries and the understanding that European co-operation—not isolation—is key. We strongly support a controlled and managed migration system, and it is essential that we work with our European neighbours on a shared approach to the challenges and opportunities that migration creates.

What we are seeing is almost unprecedented in terms of a mass movement of desperate and vulnerable people risking life and limb to get to places where they believe they can be safe. We are very lucky to be able to live our lives free from such desperation. We have our own challenges in Scotland, but we have successfully accepted and integrated thousands of refugees into our communities over recent years.

My colleague, the Minister for Europe and International Development, visited Glasgow the Caring City on Monday with James Dornan and was amazed at the generosity that is being shown by members of the public, who have willingly donated what they can to help others who are in need. He will visit Lesbos this weekend to see at first hand the excellent work that the aid agencies carry out in difficult and harrowing circumstances. I am sure that members will welcome Humza Yousaf's announcement earlier today that the Scottish Government will provide £300,000 to support humanitarian work in southern Europe by the British Red Cross and Mercy Corps, and that it will provide additional resources to Edinburgh Direct Aid and Glasgow the Caring City, which is referred to in the motion.

Such moments in human history can define nations. I am sure that I speak for all members when I say that I want Scotland to be defined by our compassionate and humane response to the crisis, our strong leadership on the international stage and the warmth of the welcome that we can and will provide to all people who come to our country to escape unimaginable horrors.

**The Deputy Presiding Officer:** That concludes James Dornan's debate on taking action to protect asylum seekers and refugees throughout Europe. Before I close the debate, I point out to members the earlier-than-usual start to the meeting this afternoon. I suspend the meeting until 2.15 pm.

13:15

*Meeting suspended.*

14:15

*On resuming—*

## Parliamentary Bureau Motion

### **The Deputy Presiding Officer (John Scott):**

The first item of business this afternoon is consideration of business motion S4M-14424, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a timetable for the stage 3 consideration of the Human Trafficking and Exploitation (Scotland) Bill.

*Motion moved,*

That the Parliament agrees that, during stage 3 of the Human Trafficking and Exploitation (Scotland) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limit indicated, that time limit being calculated from when the stage begins and excluding any periods when other business is under consideration or when a meeting of the Parliament is suspended (other than a suspension following the first division in the stage being called) or otherwise not in progress:

Groups 1 to 3: 40 minutes

Groups 4 to 6: 1 hour 20 minutes

Groups 7 to 9: 1 hour 45 minutes.—[*Joe FitzPatrick.*]

*Motion agreed to.*

## Human Trafficking and Exploitation (Scotland) Bill: Stage 3

14:16

**The Deputy Presiding Officer:** The next item is stage 3 proceedings on the Human Trafficking and Exploitation (Scotland) Bill. Members should have copies of the bill as amended at stage 2, the marshalled list of amendments and the groupings.

The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. The period of voting for the first division will be 30 seconds, and thereafter I will allow a voting period of one minute for the first division after a debate. Members who wish to speak in the debate on any group of amendments should press their request-to-speak buttons as soon as possible after I call the group.

Members should now refer to the marshalled list.

### Section 3—Exploitation for purposes of offence of human trafficking

**The Deputy Presiding Officer:** We start with group 1, on exploitation for the purposes of the offence of human trafficking. Amendment 1, in the name of the Cabinet Secretary for Justice, is the only amendment in the group. I call the cabinet secretary to speak to and move amendment 1.

**The Cabinet Secretary for Justice (Michael Matheson):** Section 3 of the bill describes cases of exploitation for the purposes of the human trafficking offence in section 1. Section 3(8) deals with cases in which a victim is used to provide services or benefits for another person on the basis of their vulnerability. The bill as currently drafted requires that a person using a victim in that way must have “chosen” the victim on the basis that they are a child or vulnerable adult.

We have reflected on the concerns raised by Jenny Marra at stage 2 and on similar concerns that were raised in written evidence by the Legal Services Agency. Although we remain of the view that the package of amendments to section 3(8) proposed by Jenny Marra at stage 2 went too far, we are satisfied that there is a case for modification of section 3(8), not least because the current provision may require the thought process of the accused or of any other person involved in exploitation to be established in evidence in court, which may be problematic and may make securing convictions difficult.

Amendment 1 therefore removes the reference to the choice made by the person exploiting the victim. Instead, it focuses section 3(8) on the

victim’s vulnerability. It would therefore be sufficient to establish exploitation under section 3(8) for a child or vulnerable adult to have been used to provide services or benefits to another person if a person who is not a child or vulnerable adult would have been likely to refuse to provide those services or benefits.

Again, I would like to thank members of the Justice Committee, Jenny Marra and other stakeholders for highlighting the fact that an amendment in those terms would improve the practical implementation of the bill.

I move amendment 1.

*Amendment 1 agreed to.*

### Section 4—Slavery, servitude and forced or compulsory labour

**The Deputy Presiding Officer:** We move to group 2. Amendment 2, in the name of the cabinet secretary, is grouped with amendment 12.

**Michael Matheson:** As I have indicated throughout the passage of the bill, the Government wants to create a society in which all children and young people have the right to be cared for and protected from harm, and where they can grow up in a safe environment. Amendment 2 supports that ambition.

Members are aware that section 4 of the bill deals with the offence of slavery, servitude and forced or compulsory labour. Section 4(3) provides that,

“In determining whether a person is being held in slavery or servitude or required to perform forced or compulsory labour,”

a court must have regard to

“any personal circumstances of the person ... that may make the person more vulnerable than other persons.”

Amendment 2 is intended to provide absolute certainty that being a child, as defined in section 36 of the bill, is a personal circumstance that makes a person more vulnerable than others to being exploited in that way. If the amendment is accepted, the bill would be clear that a court would need to have regard to the fact that a victim is a child, given the particular vulnerability of children to exploitation. I hope that all members can support amendment 2.

Amendment 12, in the name of Jenny Marra, seeks to further adjust section 4(3). It would require courts to consider any work or services that were provided by potential victims of the slavery, servitude or forced or compulsory labour offences. That would expressly include work or services provided in circumstances constituting exploitation for the purposes of the separate offence of human trafficking.



In determining whether an offence has been committed under section 4, courts and juries are already permitted to consider any form of work or service provided by a victim, provided that it is work or a service that has been provided in circumstances that amount to a breach of article 4 of the European convention on human rights. Not all forms of exploitation listed in sections 3(3) to 3(8) will necessarily amount to a breach of article 4, so amendment 12 would make the scope of section 4 offences less clear.

Amendment 12 also links section 1 and section 4 offences. We take the view that the distinction between the offences should be maintained, because conflating these issues may make the scope of the individual offence less clear, and any confusion in that respect could jeopardise the prospect of successful convictions.

We have demonstrated that we have been prepared to review the wording of sections 1 and 4 by lodging amendments to both those sections at stages 2 and 3, having listened carefully to members and other stakeholders. However, in the case of amendment 12, we are satisfied that no further change is needed and that the scope of section 4 is sufficiently clear to allow for successful prosecutions in appropriate cases.

I ask members to support amendment 2 in my name, and I ask Jenny Marra not to move amendment 12.

I move amendment 2.

**Jenny Marra (North East Scotland) (Lab):** I welcome the Government's amendment 2, which provides much-needed clarity that the situation of children and their particular vulnerability to slavery and forced labour should be taken into account when deciding if an offence under section 4 has occurred.

However, there is another aspect of the offence that needs to be addressed to ensure that section 4 enables the law effectively to prosecute those who exploit children. Section 4 has a much narrower definition than the human trafficking offence, because it contains no clear definitions of slavery, servitude or forced or compulsory labour, nor does it benefit from a wider definition of exploitation in section 3, which pertains only to the section 1 human trafficking offence.

I am concerned, despite the cabinet secretary's remarks, that that may present an obstacle to prosecuting cases of child exploitation. Children are often exploited in ways that are less defined than forced labour and servitude. That includes forced criminal activity such as cannabis cultivation, shoplifting or enabling others to obtain benefits, for example through fraudulent claims. Such forms of exploitation can be prosecuted under the section 1 offence of human trafficking,

through the related definition of exploitation in section 3. However, if the details of the case do not allow a human trafficking charge to be brought, section 4 does not cover those forms of exploitation so clearly.

Amendment 12 specifically allows the court to consider those wider circumstances of exploitation in determining whether an offence has been committed under section 4. That will enable prosecutions under section 4 when the form of exploitation may not easily be defined narrowly as forced labour or human trafficking.

**Margaret Mitchell (Central Scotland) (Con):** I am sympathetic to amendment 12 in Jenny Marra's name, which widens the definition of exploitation from servitude or forced and compulsory labour to include forced criminal activities, such as trafficking for the purposes of the cultivation of cannabis. That is not something that people are widely aware of, despite the fact that cannabis farms are discovered almost daily in Scotland. Amendment 12 makes sense and would be an improvement to the bill.

**Michael Matheson:** I will clarify the matter further. As the bill currently stands, any form of work will fall within the scope of section 4, provided that the work is done in circumstances that amount to slavery, servitude or forced or compulsory labour as set out in article 4 of ECHR. If a person, including a child, is forced to undertake work in relation to—I take the examples given by Jenny Marra—cannabis cultivation or to carry out shoplifting for another person's benefit, that will be an offence under section 4 of the bill.

The specific example to which Jenny Marra referred is covered by section 4. That is why we do not think it necessary to amend the section.

**The Deputy Presiding Officer:** The question is, that amendment 2 be agreed to. Are we agreed?

**Members:** No. [*Interruption.*]

**The Deputy Presiding Officer:** I am afraid that I did not hear the answer clearly, so I will put the question again.

The question is, that amendment 2 be agreed to. Are we agreed?

**Members:** Yes.

*Amendment 2 agreed to.*

**The Deputy Presiding Officer:** Thank you.

*Amendment 12 moved—[Jenny Marra].*

**The Deputy Presiding Officer:** The question is, that amendment 12 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division. As this is the first division of the afternoon, I suspend the meeting for five minutes.

14:27

*Meeting suspended.*

14:32

*On resuming—*

**The Deputy Presiding Officer:** We move to the division on amendment 12.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Gavin (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Davidson, Ruth (Glasgow) (Con)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Finnie, John (Highlands and Islands) (Ind)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Annabel (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alex (North East Scotland) (Con)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Macintosh, Ken (Eastwood) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahon, Michael (Uddingston and Bellshill) (Lab)  
 McMahon, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Wilson, John (Central Scotland) (Ind)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)

Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 49, Against 61, Abstentions 0.

*Amendment 12 disagreed to.*

#### After section 4

**The Deputy Presiding Officer:** We move to group 3. Amendment 3, in the name of Rhoda Grant, is grouped with amendment 21.

**Rhoda Grant (Highlands and Islands) (Lab):**

Sexual exploitation is a major driver for human trafficking. A person can be sold over and over again, which makes them very profitable to traffickers. In recognition of that connection, I lodged amendments at stage 2 to criminalise the purchase of sex, which sought to make those who feed the industry directly responsible for their actions. As part of those amendments, I sought to decriminalise those who are in prostitution, regardless of whether they were trafficked, because we in Scotland recognise that prostitution is violence. That is clearly outlined in the equally safe strategy and is signed up to by the majority of the members of this Parliament.

I also lodged a stage 2 amendment to require the Scottish Government to provide exiting services for those who are in prostitution—again, for those who are trafficked and those who are not. Help for victims should be the utmost priority.

In response to calls from those who responded to the Government and committee consultations on the bill by highlighting the need for such an approach, the cabinet secretary commissioned a review of research, in order to make an informed decision. To allow him space and time to commission and receive that research, I decided against lodging my stage 2 amendments again. I understand that that research will involve stakeholders.

My stage 3 amendments were lodged in recognition of that work. They would set it in a legislative framework to ensure that it is in keeping with the equally safe strategy to address violence against women by encompassing a gendered analysis of violence against women.

The final part of amendment 3 would require the cabinet secretary to put on record his response to that research and consultation. Amendment 21 is a consequential amendment.

The amendments are measured and in keeping with the Scottish Government's policy. Indeed, they take into account the progress that the Scottish Government is making—albeit that it is turgidly slow—and take the Government at its word in telling us that it understands that sexual exploitation, whether or not the victim is trafficked, is violence against women.

In light of that, I sincerely hope that the Scottish Government and Parliament will accept the amendments, which are in keeping with Scottish Government policy.

I move amendment 3.

**Jean Urquhart (Highlands and Islands) (Ind):**

I will speak against amendment 3 for different reasons. We have heard from Rhoda Grant that this is about violence against women. Violence

against women is abhorrent, but it is worthy of a much bigger debate, and not a debate during the passing of the Human Trafficking and Exploitation (Scotland) Bill.

I do not doubt that there may well be violence against women in the act of trafficking human beings, but that is not to be singled out in this case. There are acts of violence against men, women and children that we hope that the bill will address. There is no evidence to highlight prostitution as an area that is worse than any other through human trafficking.

Human trafficking can involve slavery of the worst sort in different professions, whether that is in agricultural work or other areas of work in which people are driven as slaves. It is not only about prostitution. Whatever debate there is about prostitution, it should not be carried out in this debate about human trafficking.

**Graeme Pearson (South Scotland) (Lab):** I support Rhoda Grant's amendment 3. It is unfortunate that Jean Urquhart takes the view that she takes. In doing so, she will be aware that many others in the chamber and out in the public domain disagree with the views that she expressed.

There has been huge controversy about the whole area of the abuse of women and the sale of sexual services. Rhoda Grant's amendments would acknowledge the Government's work in the field and encourage a report back to the Parliament so that all parliamentarians benefited from the review and could deal with evidence and not supposition. I therefore support Rhoda Grant's amendments.

**Elaine Murray (Dumfriesshire) (Lab):** I, too, support Rhoda Grant's amendment 3. The issue that relates to the bill is the control of demand for women for sexual exploitation, which relates to the crime of human trafficking. Rhoda Grant's amendments do not specifically refer to the criminalisation of the purchase of sex; they ask purely for a report on the research that the Government is undertaking, which Parliament should have sight of, and they ask for the opportunity to assess whether such exploitation of women, which many members believe is a form of violence against women, has to be regulated.

**Alison McInnes (North East Scotland) (LD):**

Members have never shied away from discussing these things, but trying to put amendment 3 in the bill seems to be a most unusual way of moving the debate forward. I do not doubt Rhoda Grant's sincerity, but she had the issue debated at stage 2, when the Justice Committee made it very clear that it was not appropriate to bring the issue into discussion of the bill at that late stage.

At stage 2, the minister gave an assurance on the record that the research would be done. It seems to me unusual to press amendment 3.

**Malcolm Chisholm (Edinburgh Northern and Leith) (Lab):** I am not quite sure how anyone could doubt that there is a strong link between the sex trade and human trafficking. Clearly there are other aspects of human trafficking, but we cannot deny that strong link.

It is necessary to look at tackling demand. Much of the written evidence on the bill highlighted that, including evidence from the Scottish Trades Union Congress and the trafficking awareness-raising alliance, which Jenny Marra visited this morning. I pay all credit to TARA for the great work that it has done. It said that we must address the issue of tackling demand.

I see the issue through a gender inequality prism, but members do not need to do that to believe that research would help to inform the debate about the wider issues. Jean Urquhart will shortly introduce a bill that is based on a different perspective. Surely research will inform the wider debate on that, as well as be relevant to the Human Trafficking and Exploitation (Scotland) Bill.

Voting for amendment 3 would not necessarily commit members to holding the view that Rhoda Grant has put forward. Research is important in itself, and the issue is certainly relevant to the bill, so I support her amendment.

**Elaine Smith (Coatbridge and Chryston) (Lab):** Prostitution has been debated over a number of years and the Scottish Government very firmly recognises it as being on the spectrum of violence against women and children. Most of those who are involved in prostitution are vulnerable and a great many have been trafficked, so amendment 3 is entirely appropriate. It seems only logical that purchasers should be criminalised and that the victims should not be. In my opinion, that would help to stop trafficking.

Research is very little to ask for and, if the research has already been agreed to, there is no reason why we should not support the amendment. I support amendment 3.

**Margaret Mitchell:** Had amendment 3 stopped at commissioning research, we would have supported it, but it goes on to be more prescriptive. In general, I do not believe that this is the right time for the discussion to take place. It does the issue a disservice to press amendment 3, as the amendment says that the Scottish Government's response to the research would trigger legislation.

There will be an opportunity to move the issue forward, perhaps in a more timely fashion, by discussing it as part of considering the proposed

abusive behaviour and sexual harm bill. For those reasons, we will—regrettably—not support amendment 3.

**Jenny Marra:** I reiterate my colleagues' comments that Rhoda Grant carefully worded amendment 3 so that the cabinet secretary would consider the evidence. The amendment was informed by how the Government wants to take forward the issue.

I am very surprised by Jean Urquhart's denial of the link between prostitution and trafficking. [*Interruption.*]

We have taken the Government's approach and tried to separate the issues, but it would be fair to recognise that we have not been able to have a full debate or to vote on the issue in the chamber before, because the Scottish National Party has not supported any moves to criminalise the purchase of sex. I strongly encourage members on the Government benches to support Rhoda Grant's amendment 3, which would require the Government to review the evidence and take the measure forward. I would expect a Government that stands up for being progressive to do that; it would be embarrassing if it did not.

**The Deputy Presiding Officer:** I call Jim Hume.

**Jim Hume (South Scotland) (LD):** I apologise—I do not want to speak.

14:45

**Michael Matheson:** At stage 2, the Government made clear our view that the bill is not the appropriate legislation for dealing with the substantive and complex issue of criminalising the purchase of sexual services, and that is still the case. However, I acknowledge the wide-ranging views on the matter and I welcome the opportunity to set out the Scottish Government's position on Rhoda Grant's amendments 3 and 21.

I make it clear that the Scottish Government very much respects the strongly held views of those who support criminalisation and of those who oppose it. Rhoda Grant and those who support criminalising the purchase of sexual services point to the research that has been undertaken to show that the Swedish or Nordic model is working to reduce the demand for sex and is preventing sexual exploitation and trafficking. However, those who oppose criminalising the purchase of sexual services point to other research that shows that the Nordic model is not working and that sex workers have become more vulnerable as a result of such criminalisation.

Therefore, it is clear that there is a lack of consensus about the conclusions that may be drawn from existing international research and

about the relevance of that research to the specific circumstances of prostitution here in Scotland. That is why I committed at stage 2 that the Scottish Government would commission research into the matter. I also confirmed that the findings of that research would be published in February 2016. When I met Rhoda Grant on 15 September, I explained that the Scottish Government had already commissioned the Scottish centre for crime and justice research to undertake a desk-based review of the impact of criminalising the purchase of sexual services and a review of the existing literature on prostitution in Scotland.

To supplement that evidence, researchers in the Scottish Government's justice analytical services will work with relevant agencies and key stakeholders to explore and summarise up-to-date evidence on the nature and scale of prostitution in Scotland. That will include a summary of existing evidence on the scale and nature of sex work; the evidence on the number and profile of victims who have been trafficked for sexual exploitation and links to organised crime; the impact of prostitution on communities; the scale and nature of the demand for prostitution services; and the scale and nature of existing support services and an assessment of those services.

The research will involve police, local authorities and key health boards. Researchers also intend to speak to a range of third sector organisations, including TARA, Women's Aid, Glasgow Community and Safety Services and the Women's Support Project. Both strands of the research will be subject to independent scrutiny by academics to provide a quality assurance check.

The implications of the research findings will be discussed with key stakeholders at an event that is being planned for February next year. It will focus on the possible impact of the criminalisation of the purchase of sex, taking account of the circumstances in Scotland, and will determine whether further work is required.

Rhoda Grant's amendments 3 and 21 would not assist the conduct or delivery of the research that is in progress. I am advised that, if the Scottish Government was statutorily obliged to undertake the research project in the way that her amendments set out, it would not be possible to finalise the report in February 2016, as I have set out to Parliament.

The Scottish Government has not come to a policy decision on the merits or otherwise of the criminalisation of the purchase of sexual services. We will not reach such a decision until the research and the findings of the workshop are published and considered properly.

The Scottish Government considers that the bill is not the appropriate vehicle for legislating on

criminalising the purchase of sexual services, including the timescales for research, or for making policy decisions, and nor do I think that the provisions on the detailed method and content of research would be appropriate as a legal requirement in the bill. For those reasons, I invite Rhoda Grant not to press amendment 3 and not to move amendment 21.

**Rhoda Grant:** I think that a number of people who spoke against amendment 3 were actually speaking against my stage 2 amendments. I explained that I was not lodging those amendments again and that I was taking account of the work that the Government is doing.

Amendment 3 would enshrine in legislation the research that the cabinet secretary just highlighted. It would follow the same timescales as he mentioned. Indeed, the provision on reporting back would give him more time than he outlined today.

I welcome the cabinet secretary's comment that he will pull stakeholders together in February, but nothing in amendment 3 would stop that happening. It would only put into the legislation what the Government's position already is, but it would ask the Government to report back to the Parliament within a year of the publication of the research.

I urge the Scottish Government to rethink its stance on what is a measured approach and to vote for my amendment.

**The Deputy Presiding Officer:** The question is, that amendment 3 be agreed to. Are we agreed?

**Members:** No.

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

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)

Pentland, John (Motherwell and Wishaw) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Davidson, Ruth (Glasgow) (Con)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hume, Jim (South Scotland) (LD)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Johnstone, Alison (Lothian) (Green)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Neil, Alex (Airdrie and Shotts) (SNP)

Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wilson, John (Central Scotland) (Ind)

**The Deputy Presiding Officer:** The result of the division is: For 27, Against 79, Abstentions 0.

*Amendment 3 disagreed to.*

### Section 7—Lord Advocate's guidelines on prosecution of victims of offences

**The Deputy Presiding Officer:** We move to group 4. Amendment 4, in the name of the cabinet secretary, is grouped with amendment 5.

**Michael Matheson:** Amendments 4 and 5 respond to specific concerns raised by Elaine Murray and others at stage 2 and subsequently, with regard to section 7, which requires the Lord Advocate to issue instructions to prosecutors on the prosecution of victims. A fresh draft of instructions reflecting stakeholder views has now been issued by the Lord Advocate and shared with the Justice Committee, and a copy is also available in the Scottish Parliament information centre.

The concerns related first of all to the fact that although the draft instructions to be issued under the bill deal separately with adults and children, the bill makes no specific mention of the application of the instructions to children. Concern was also expressed in relation to compulsion—in particular, that compulsion should not require to be established when determining whether to prosecute child trafficking victims.

Having considered those issues, we have lodged amendments 4 and 5, which seek to adjust section 7 to make it clear that the Lord Advocate's instructions, now and in the future, must always contain provision about the factors to be taken into account or steps to be taken by prosecutors when deciding whether to prosecute children who are victims of the offence of human trafficking or of slavery, servitude and forced or compulsory labour and who appear to have committed an offence as a consequence of their being such a victim. The amendments accordingly remove the focus on compulsion to commit an offence as far as children are concerned and, as such, I ask Parliament to support them.

I move amendment 4.

**Alison McInnes:** I rise to welcome and speak in support of amendments 4 and 5, and to thank the cabinet secretary for lodging them. They will make the evidential test in the Lord Advocate's instructions regarding the prosecution of child victims different and simpler, and removing the compulsion element will allow the particular indirect pressures faced by children who have been trafficked to be reflected.

**Elaine Murray:** I, too, greatly welcome these amendments. As the cabinet secretary said, they address concerns that were raised with us at stage 2 and discussed before stage 3, and they recognise the additional vulnerabilities of children who have been trafficked.

*Amendment 4 agreed to.*

*Amendment 5 moved—[Michael Matheson]—and agreed to.*

#### After section 7

**The Deputy Presiding Officer:** We move to group 5. Amendment 6, in the name of Margaret Mitchell, is grouped with amendments 11 and 22.

**Margaret Mitchell:** Amendments 6, 11 and 22 would provide a statutory defence for victims. There is precedent for such a defence in the UK's Modern Slavery Act 2015 and in Northern Ireland's human trafficking legislation.

The possible inclusion of a statutory defence was widely discussed with stakeholders at stage 1, and Elaine Murray lodged amendments at stage 2 that aimed to introduce such a provision. At that time, the cabinet secretary identified a loophole in the relevant stage 2 amendment: it left the listing of offences to be done through regulations, although the list would need to be composed prior to the commencement of the provision. As there was no requirement in the stage 2 amendment for that to be done, it was withdrawn. Amendment 22 remedies that situation.

The Scottish Government and, in particular, the Lord Advocate have continued to oppose the inclusion of a statutory defence, giving three reasons for so doing: that it would govern and influence any instructions that were produced; that it would place a burden on the victim to raise a defence; and that it would apply to only a small number of people. I will deal with each of those reasons in turn.

It has been established—and this was accepted by the Scottish Government at stage 2—that the Lord Advocate's instructions and a statutory defence are not mutually exclusive. In other words, there can be both, and a statutory defence would ensure additional protection for victims. That brings me to the second point, which is that,

rather than a statutory defence placing a burden on victims, it would provide them with a safety net. With regard to the final reason, the fact that it would apply to only a small number of individuals is not a reason to deny those people the right to added protection.

I make the chamber aware of one final and extremely important point that was highlighted by the Law Society of Scotland. It argues that

"if there is no statutory defence available, then the accused may find himself or herself in the situation where the prosecution don't accept the accused's position regarding compulsion",

which is to say that the prosecution might not accept that the individual was forced into criminal activity. On the basis that it is the Lord Advocate's decision whether to prosecute, he, in effect, becomes judge and jury. That means that the additional protection that is afforded to a victim by a statutory defence, which is available elsewhere in the United Kingdom, will be denied to a victim in Scotland.

I move amendment 6.

**Alison McInnes:** I rise to speak against the amendments in the group. When the bill was introduced, I supported the idea of a statutory defence, and I have wrestled with the issue as the bill has gone through committee. I had thought that instructions and a statutory defence would not be contradictory, and that a statutory defence would perhaps be a safety net for anyone who was not picked up by earlier procedures. We heard from the Aberlour Child Care Trust in particular that some young victims of trafficking had been prosecuted.

However, the Lord Advocate has made a compelling case for the alternative approach of instructions, and the cabinet secretary has restated that case. In this instance, instructions will lead to a more victim-centred approach, allowing for the earliest intervention to take place and the most support to be available.

The Lord Advocate has argued that

"if a statutory defence was introduced in legislation this would result in a two tier system for potential victims of trafficking as my instructions would only apply post conclusion of criminal proceedings".

We need to keep victims of trafficking outside the criminal process as far as possible. I urge members to vote against the amendments.

**Elaine Murray:** The amendments in this group are similar to amendments that I lodged at stage 2. As Margaret Mitchell indicated, she has addressed the technical objection that the Scottish Government raised at that time.

On the morning when we considered my amendments at stage 2, the Lord Advocate issued

a letter that no one had the opportunity to discuss with the stakeholders who were supportive of a statutory defence.

I subsequently asked both the Law Society and the Faculty of Advocates to have a look at the Lord Advocate's letter. As Margaret Mitchell said, the Law Society continues to have concerns. It states in its briefing:

"We continue to question whether the duty of the Lord Advocate in terms of Section 7 of the bill as amended to issue and publish instructions about a victim of trafficking, taken on its own, meets with Article 26 of the European Convention on Action against Trafficking which states that 'Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so'."

The Law Society also points out that, as it stands, the bill would not give victims the same amount of protection as they would have under the Modern Slavery Act 2015 in England and Wales or the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.

15:00

**John Finnie (Highlands and Islands) (Ind):** I support the position that has been adopted by my colleague Alison McInnes. Elaine Murray is right to say that there have been a lot of exchanges about legal matters; indeed, we had a very interesting legal debate in the Justice Committee. People might instinctively be minded to support something that is headed up as a defence for victims of offences, but we want to prevent people from ending up in the dock in the first place. The Lord Advocate's approach is a way of doing that. For that reason, I do not support Margaret Mitchell's amendments.

**Michael Matheson:** I welcome the opportunity to address amendments 6, 11 and 22, in the name of Margaret Mitchell, and to set out once again the Scottish Government's position on a statutory defence for victims of human trafficking, slavery, servitude and forced or compulsory labour. I do not believe that the case has been made that adding a statutory defence would provide any further benefits to victims of those crimes. If the amendments were to be agreed to, I would be deeply concerned that they could have a detrimental effect on victims by placing an unnecessary burden on them.

In his letter to the Justice Committee of 28 April, the Lord Advocate set out three key concerns in relation to the use of a statutory defence. First, he was concerned that, as in the UK Modern Slavery Act 2015 and the equivalent Northern Ireland legislation, there would be a large number of

exceptions for offences to which the statutory defence could not apply. That would significantly restrict the protection for victims. Any decision that was made or approved by Parliament on the question of which offences were to be outwith the scope of the defence may require to be reflected in the Lord Advocate's instructions. Secondly, the statutory defence would require evidence of a standard that could be presented at court for its application. Thirdly, and maybe most significant, given our desire to take a victim-centred approach in the bill, the statutory defence would require the victims of human trafficking to do the work to establish that evidence themselves, requiring them to be proactive in providing information to their solicitor.

Identification of the victims of human trafficking is challenging, as victims may not consider themselves to be victims. Equally, victims may be reluctant to disclose their status to the authorities because of mistrust or fear of reprisals. It is, therefore, crucial that any mechanism to identify victims and prevent them from being prosecuted does not rely on disclosure by a victim. If someone who may not be able to speak English and who may be unfamiliar with our legal system has been rescued from the traumatic situation of having been trafficked and exploited, why would we want to place a further burden on them in requiring them to raise a statutory defence? The use of the Lord Advocate's instructions will provide a flexible and comprehensive safeguard in relation to victims of human trafficking and exploitation who are compelled to commit offences by those who exploit them. Instructions will allow anyone—not just the victim—to bring forward evidence or intelligence that an alleged offender is a victim of human trafficking.

I am also concerned about time limits. A statutory defence would require to be raised in sufficient time so that the court was properly notified of the intention to rely on it. Given the challenges involved in the identification of victims, delayed disclosure can be an issue, making strict time limits unrealistic and unhelpful and potentially acting as a limit on the victim's access to protection.

Instructions will apply at all stages of the criminal justice process. Even after someone has been convicted and sentenced for an offence, prosecutors may still consider information provided to them, and if it comes to light that a victim was compelled to commit the offence steps can be taken to have the conviction quashed.

Instructions offer a flexible approach, with no restriction on the information that prosecutors can consider when making decisions about the discontinuation of proceedings. Such information could be in the form of intelligence, opinion



evidence, hearsay evidence, evidence from other jurisdictions or evidence reported by individuals who do not wish to provide a police statement or be part of the criminal justice process.

By contrast, as the Lord Advocate made clear, reliance on a statutory defence would require the defence to be supported by evidence admissible under Scots law. Decisions would be made within the confines of the evidence presented during the trial, rather than with the benefit of all the information available, notwithstanding issues of admissibility.

Some members may question why it is an either/or situation and ask why the bill cannot contain provision for both a statutory defence and the Lord Advocate's instructions. In his letter to the Justice Committee of 15 June, the Lord Advocate made it clear that, if the Parliament were to introduce a statutory defence in legislation, that would result in a two-tier system for potential victims. He stated:

"my instructions would only apply post conclusion of criminal proceedings, as the statutory defence would be the choice of Parliament in transposing the Human Trafficking directive in domestic law in relation to the criminal proceedings. My instructions could only apply when the statutory defence was not available."

The Government's preferred option is therefore to place a duty on the Lord Advocate to produce instructions to prosecutors to deliver our victim-centred approach to the issue. As I have made clear, that approach is supported by the Lord Advocate, who made the case against the statutory defence in the strongest possible terms in his oral evidence and in subsequent written correspondence to the Justice Committee. I urge Margaret Mitchell to withdraw amendment 6 and not to move her other amendments.

**Margaret Mitchell:** In a letter dated 29 September, the Lord Advocate has again written to the Justice Committee about a statutory defence and his instructions on the prosecution of victims of human trafficking or exploitation. In that letter, he infers that one can have either his instructions or a statutory defence. That is simply not the case. It was categorically stated in evidence that one can have both. That is where the argument that it is better to have a victim-centred approach, which has been advanced by my colleagues Alison McInnes and John Finnie, falls down. I reiterate that the two approaches are not mutually exclusive and that both can be used. A statutory defence would provide additional protection for victims; without it, the Lord Advocate would be judge and jury. That would simply not be fair.

The most bizarre argument of all is the one that the cabinet secretary has just repeated: it is an unnecessary burden on victims to have the

additional protection of a safety net. How bizarre is that? That means that the Lord Advocate alone will decide on the credibility and reliability of information that supports whether an individual has been trafficked. In effect, if amendment 6 is voted down, an individual in Scotland will be denied the protection of a statutory defence—a protection that is afforded to victims in England, Wales and Northern Ireland. I urge members to vote for amendment 6.

**The Deputy Presiding Officer:** The question is, that amendment 6 be agreed to. Are we agreed?

**Members:** No.

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

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Gavin (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Davidson, Ruth (Glasgow) (Con)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Annabel (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)

Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hume, Jim (South Scotland) (LD)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McInnes, Alison (North East Scotland) (LD)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wilson, John (Central Scotland) (Ind)

**The Deputy Presiding Officer:** The result of the division is: For 40, Against 70, Abstentions 0.

*Amendment 6 disagreed to.*

## Section 8—Duty to secure support and assistance

**The Deputy Presiding Officer:** We move to group 6. Amendment 13, in the name of Jenny Marra, is grouped with amendments 14 to 16.

**Jenny Marra:** Amendments 13 to 16 seek to strengthen the section 8 provision of support to victims of trafficking.

The policy memorandum states that the bill will

“ensure the rights of trafficked victims to access support and assistance—placing a duty on the Scottish Ministers to secure the provision of relevant immediate support and recovery services for adult victims of trafficking”.

However, I am concerned that section 8 will not do what we think it will do.

Section 8 will not oblige ministers to provide immediate support for the person who identifies as a possible victim. Support is guaranteed only once a decision has been made that

“there are reasonable grounds to believe that”

the person

“is a victim”,

which, at present, requires a decision under the national referral mechanism.

The first few hours and days of a person being identified as a possible victim can be the most traumatic. That person might have taken the brave step of disclosing what happened to them or have been found during a police raid. In such moments, the offer of assistance should be automatic and guaranteed—not dependent on a discretionary provision.

Amendment 13 would ensure that whenever there are sufficient signs that a person may have been trafficked to lead to a referral to the national referral mechanism, the person will have an immediate right to basic support and assistance from the moment when the referral is made. They should not have to wait for a reasonable-grounds decision or a decision to exercise the discretionary power because that would be to put bureaucracy ahead of human need.

Each situation is, of course, different and individuals who do not need or want support will not be obliged to accept it. Providing support from the point of referral is the approach that has been adopted in Northern Ireland, which is the only other part of the United Kingdom to have a statutory duty to provide trafficking victims with support. We would do well to do the same.

Amendment 14 addresses two other key problems with section 8. First, it will put into statute a minimum time of 45 days for which the victim is entitled to support. Secondly, it will ensure that victims who receive a positive

conclusive determination before the end of the support period will continue to be entitled to support.

Consequential amendment 15 would remove the power to provide discretionary support where it is superseded by the entitlement in amendments 13 and 14, but would retain the power to provide such support beyond the time when the positive conclusive determination is made.

Amendment 16 would introduce a requirement for publication of guidance about the exercise of the power to provide victims with discretionary support. I have already mentioned some of my concerns about relying on discretionary powers.

I move amendment 13.

15:15

**Margaret Mitchell:** I support Jenny Marra's amendment 16, which would require the Scottish ministers to publish guidance on the support and provision of assistance to victims of an offence of human trafficking.

Although I am sympathetic to amendment 13 because I feel that there is a real issue about how someone who has potentially been trafficked is dealt with in the first hours, it would be difficult to determine exactly what the "sufficient signs" would be. Amendment 16 will perhaps cover things in the meantime and give us an accurate reflection of how the discretionary power is working.

**Michael Matheson:** I welcome the opportunity to set out again the Government's position on the issues that are raised by Jenny Marra's amendments 13 to 16. Amendments similar to 13 to 15 were considered but not accepted by the Justice Committee at stage 2. We did not support the amendments at stage 2 because they went against the Government's approach in section 8 to providing for compulsory or discretionary support. The Government's amendment at stage 2, which was accepted by the committee, provides further flexibility by allowing those issues to be considered and changed through regulations.

The Government's position has not changed since the amendments were rejected at stage 2; we still have significant concerns that the amendments are too wide in the context of the bill. For example, amendment 13 would impose a duty to provide support where a reference is "about to be" made. That test is insufficiently clear to provide any sort of certainty to victims or support providers on when mandatory support duties will be triggered.

Amendment 14 seeks to ensure that a victim of a section 1 offence would receive support or assistance for a period of at least 45 days. We believe that Jenny Marra's approach would

severely restrict the Government's ability to deal with changes to the national referral mechanism process, on which section 8 of the bill relies. The Scottish Government's preferred approach is to rely on the regulation-making power in section 8(2) to set out the period of support. The power that was added at stage 2, and which is now in section 8(8) of the bill, also allows ministers to adjust the way in which a conclusive determination is made.

That allows the Government to take into account the outcome of the national referral mechanism pilots that are under way and which are examining how the national referral mechanism can be streamlined and improved. The outcomes from those pilots will help to establish the most effective approach. Allowing the level of support and assistance to be determined under those regulation-making powers provides more flexibility to change the minimum or maximum period for which support and assistance must be provided under the mandatory support provisions in section 8(2).

As background, I say that the national referral mechanism review was commissioned by the Home Secretary in April 2014. The review was asked to examine, and to make recommendations to the Home Secretary on, six key areas: identification of victims; how they access support; the level of support that victims receive; decision making; governance of the NRM; and collection and sharing of data. The report of the review of the NRM recommended providing support based on an assessment of the individual needs of the victim, and that consideration should be given to entry and exit timescales and support following conclusive identification. That chimes with the victim-centred approach that we want to take in the bill.

Members will wish to be aware that the review also recommended an overhaul of the referral process of the national referral mechanism. We believe that section 8(3) of the bill provides the appropriate and flexible approach to discretionary support. Amendment 16 seeks to require ministers to publish guidance on that. We do not consider that a separate guidance document would be necessary or helpful in this context. We should be very cautious about setting out detailed guidance—as appears to be envisaged here—on the circumstances in which discretionary support is to be provided. That support must be directed towards the needs of individual victims; I would be concerned that lengthy guidance on the matter would constrain rather than encourage provision of such support.

In addition, amendment 16 does not work well with section 8. For example, amendment 16 suggests that guidance would cover an external authority making a determination about

discretionary support, when it is ministers who exercise the discretion to provide support under section 8(3). It is also the case that, since the duty to which the guidance relates is a duty on Scottish ministers, the amendment would in effect amount to a requirement on ministers to issue guidance to themselves. Such guidance would, of course, have limited legal effect.

Members will wish to be aware that section 31(3)(c) of the bill covers the strategy, and states that the strategy may set out

“support and assistance which is, or is to be, available ... to adults or children who are, or appear to be, victims of an offence under this Act.”

My officials plan to visit at least one of the pilot areas to find out how the pilots are progressing. On the back of that visit, I am happy to make an offer to Jenny Marra and Christina McKelvie, who are co-conveners of the cross-party group on human trafficking, that my officials will work with the group to get its input and views on the matter. We will carefully consider options on how support and assistance should be accessed, delivered and evaluated and, looking forward, we will of course consult key stakeholders on the drafting of regulations.

I therefore urge Jenny Marra to seek to withdraw amendment 13 and not to move her other amendments.

**Jenny Marra:** I welcome the cabinet secretary's commitment that his civil servants will engage with the cross-party group on human trafficking. He knows as well as I do that the legislation that we are considering today is the first step in our fight against human trafficking.

However, I believe that my amendments provide a great deal of clarity, and I am slightly surprised that the minister thinks that putting commitments into legislation could compromise or discourage the provision of support for trafficking victims.

Section 8 is a central part of the bill—perhaps the most important part—and the needs of and care for victims must remain a primary focus of not only the legislation that we are considering today but our strategy and the ground-level action that will follow.

It is an important marker that our legislation gives a statutory basis to victims' entitlement to support. We need to ensure that the legislation that we pass today does not, in the guarantees that it provides, short-change people who are extremely vulnerable. I press amendment 13.

**The Deputy Presiding Officer:** The question is, that amendment 13 be agreed to. Are we agreed?

**Members:** No.

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

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Davidson, Ruth (Glasgow) (Con)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)

Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and  
 Lauderdale) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Johnstone, Alison (Lothian) (Green)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse)  
 (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine)  
 (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wilson, John (Central Scotland) (Ind)

**The Deputy Presiding Officer:** The result of the division is: For 33, Against 77, Abstentions 0.

*Amendment 13 disagreed to.*

*Amendment 14 moved—[Jenny Marra].*

**The Deputy Presiding Officer:** The question is, that amendment 14 be agreed to. Are we agreed?

**Members:** No.

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

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)

Finnie, John (Highlands and Islands) (Ind)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Wilson, John (Central Scotland) (Ind)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)  
 Davidson, Ruth (Glasgow) (Con)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)

Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 37, Against 73, Abstentions 0.

*Amendment 14 disagreed to.*

*Amendment 15 moved—[Jenny Marra].*

**The Deputy Presiding Officer:** The question is, that amendment 15 be agreed to. Are we agreed?

**Members:** No.

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

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)

McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Davidson, Ruth (Glasgow) (Con)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Johnstone, Alison (Lothian) (Green)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)

McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wilson, John (Central Scotland) (Ind)

**The Deputy Presiding Officer:** The result of the division is: For 33, Against 77, Abstentions 0.

*Amendment 15 disagreed to.*

*Amendment 16 moved—[Jenny Marra].*

**The Deputy Presiding Officer:** The question is, that amendment 16 be agreed to. Are we agreed?

**Members:** No.

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

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Gavin (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Davidson, Ruth (Glasgow) (Con)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Finnie, John (Highlands and Islands) (Ind)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Annabel (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alex (North East Scotland) (Con)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)

McGrigor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Wilson, John (Central Scotland) (Ind)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)

Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 47, Against 62, Abstentions 0.

*Amendment 16 disagreed to.*

### **Section 8B—Independent child trafficking guardians**

**The Deputy Presiding Officer:** We move to group 7. Amendment 7, in the name of Christina McKelvie, is grouped with amendments 17 and 9.

**Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP):** I thank the cabinet secretary, my parliamentary colleagues and all the stakeholders who have helped to develop the content of the amendments on these issues. I especially thank Lisa Gamble from Barnardo's, who has helped us all to understand the particular challenges that are faced by children who are at risk or who have been trafficked. Amendment 7 builds on and strengthens what is an important piece of work to further the interests of vulnerable unaccompanied trafficked children in Scotland.

Amendment 7, which reflects amendments that were lodged by Alison McInnes and Jenny Marra at stage 2, seeks to broaden the pool of children who will be eligible to receive a guardian. The broadening of the criteria will include children who are at risk of and vulnerable to becoming victims of trafficking, rather than merely children who are believed to have been trafficked already. At stage 2, the Scottish Government committed to working with Justice Committee members and stakeholders to get a better understanding of who that cohort of children should be. I believe that the Government has done that.

Amendment 7 would broaden the scope so that the provision of independent child trafficking guardians would extend to children who are or may be a victim of trafficking and, crucially, those who are vulnerable to trafficking in the future. That will have the effect of protecting unaccompanied children where a determination of trafficking might not be immediately apparent, therefore giving such children the immediate support that they need, and protecting unaccompanied children who, simply through their circumstances, are vulnerable to being trafficked.

I move amendment 7.

**Jenny Marra:** I welcome amendment 7, in the name of Christina McKelvie, which will extend the provision of a guardian to children who are vulnerable to trafficking. I am grateful to the cabinet secretary for listening to the concerns of those of us who lodged amendments on the issue and pressed the issue at stage 2. The cabinet secretary has moved a long way on the issue, from insisting that the named person was sufficient protection for trafficked children to accepting the much more comprehensive amendment that Christina McKelvie has just moved, which gives a legal guardian to all separated migrant children, including EU migrant children.

15:30

The migrant crisis that we witness on our television screens means that the possibility of unaccompanied migrant children arriving in our communities becomes all the more real, so the cabinet secretary's shift in thinking on the issue is very welcome today. However, I seek clarification about the terminology used in amendment 7 to confirm that the amendment will, indeed, ensure that under section 8B all separated migrant children will receive a guardian, and about what criteria will be used to determine whether an individual child is vulnerable to becoming a victim.

Amendment 17 seeks to provide the protection of a guardian for children whose parents are suspected of being involved in trafficking or exploiting their own children. The bill currently provides a guardian only for children who do not have in the United Kingdom anyone with parental rights and responsibilities. That provision assumes that the parents of a child will act to support and protect the child's best interests in the way that a guardian would. Sadly, for some children, that is not the case and they are exploited by their own parents. I believe that if we leave section 8B as it stands, we are leaving some very vulnerable children at risk by not providing them with a guardian. I cannot think of a more vulnerable position for a child to be in than to be exploited by their own parents.

In 1687, our Court of Session heard the tumbling lassie case, which was about a little girl who was sold by her parents in this country into the circus. Our Court of Session just up the road deemed the sale of a person and child illegal in Scottish common law, but the awful situation in which parents are suspected of exploitation still exists. Today, children would be removed from the parents' care for their protection, but I believe that that is insufficient. We must ensure that such vulnerable children are given the same protection as unaccompanied children arriving on our shores: they should be given a legal guardian. However, I cannot see that section 8B would allow the



appointment of a guardian, so I urge the cabinet secretary to complete section 8B's protection of children vulnerable to trafficking by supporting amendment 17.

**Michael Matheson:** I thank both Christina McKelvie and Jenny Marra for their amendments. I am fully supportive of amendment 7, which will have the effect of widening the eligibility criteria to include children who are unaccompanied and may be vulnerable to being trafficked. The services of a guardian, as currently provided for in the bill, are for children who do not have anyone in the UK with parental rights and responsibilities. However, amendment 17 seeks to widen the cohort of children who are eligible to be appointed a guardian to include children where a person who holds parental rights and responsibilities is not in regular contact or has a conflict of interest with the child.

Child protection services, including among others the police and children and families social workers, already have responsibilities to work with children and anyone who holds parental rights and responsibilities in relation to them when that is in the best interests of the child. In the extremely serious situation where a person with parental rights and responsibilities has condoned or, indeed, been actively involved in the trafficking of a child, child protection mechanisms are available to remove that child in order to protect them from harm.

Local authorities also have wider responsibilities to any child in need and to children who are looked after, where they are required to provide them with services, support and, where necessary, accommodation in order to address the child's needs and to support them. That will be articulated in the strategy to be prepared under the bill, where we will emphasise the existing support mechanisms and how they should be deployed to ensure the care and safety of trafficked children.

I therefore want to make clear that through the existing mechanisms all children, including those who are not eligible to receive a guardian as provided for in the bill, will receive the support and protection that they require. No child will be excluded as we already have appropriate support in place through Scotland's highly regarded and widely experienced child protection workforce. The services of a guardian, as provided for in the bill, are for children who do not have anyone in the UK with parental rights and responsibilities. Such children might, for example, require particular and specialist support for overcoming language barriers or obtaining legal services for an interview with the Home Office to determine their immigration status. It is not necessary or appropriate to extend that provision to children who do not face the same set of challenges or

who already have support via existing domestic measures. I therefore urge members to resist amendment 17.

Amendment 9 relates to a stage 2 amendment from Alison McInnes that resulted in the bill allowing relevant authorities to make a referral to appoint a guardian for a child. At stage 2, the Government's position was that only local authorities should make such a referral. The list of relevant authorities that was put into the bill as a result of Alison McInnes's amendments includes local authorities, the police, health boards, the Crown Office and Procurator Fiscal Service and the UK visa and immigration service. That list could raise some legislative competence issues in relation to the specification of the UK visa and immigration service, which is part of the Home Office. It is also not appropriate to include the COPFS because it is not a legal entity.

I recognise the point, however, and that is why I lodged amendment 9, which amends the definition of relevant authorities in the bill and gives ministers an enabling power by regulation to add to the proposed list of relevant authorities. That will allow time to consider which agencies over and above local authorities should be added as appropriate referring agencies. I therefore ask members to support amendment 9.

**Alison McInnes:** I recognise the point about the legislative competence of including the UK visa and immigration agency. Will the cabinet secretary put it on the record that he recognises the need to consider that there will be other organisations that can make a referral to the system, and perhaps indicate a timetable for bringing forward regulations?

**Michael Matheson:** As I have just outlined, the purpose of the enabling power and the regulations is to allow us time to consider what enabling authorities should be listed in the bill. That will achieve the objective that the member is seeking to achieve. Regulations relating to the bill will commence once the bill has been approved by Parliament, with the due consultation exercise that would normally surround the development of such regulations.

I ask members to support amendments 7 and 9 and I ask Jenny Marra not to move amendment 17. If it is moved, I urge members to resist it.

**Alison McInnes:** I speak in support of amendment 7. At stage 2, Christina McKelvie, Jenny Marra and I all lodged amendments with similar intent to amendment 7, although they were withdrawn to give the Government time to explore whether there was a gap in provision. I am pleased that the Government has recognised the vulnerability of all unaccompanied children.

When we spoke about it at stage 2, we felt that there was a need to create a presumption that a child who is travelling alone and who is seeking asylum might have been trafficked. If we want all children who have been trafficked to be referred to the guardianship service, we must surely acknowledge that many separated children who present in the first instance as asylum seekers will subsequently be identified as having been trafficked. Those most vulnerable young people might present with a cover story or they might not understand that they have been trafficked, and they deserve the earliest possible intervention.

We are talking about a small number of children who might not realise that they have been trafficked. If amendment 7 does not pass, there could be an increased risk that the child could be re-trafficked before they have been identified. I support that amendment.

I recognise the point about legislative competence in relation to amendment 9, but it is important to recognise that there is merit in organisations having the capacity to refer a child to an independent guardian as soon as is reasonably practical after they have been given grounds to consider that the child might be a trafficking victim. Local authorities are not necessarily the first point of contact for a trafficked child and I welcome the cabinet secretary's commitment to bringing forward regulations about that.

**Christina McKelvie:** We need to be careful about the language that we use when we describe unaccompanied young children in the system, especially when we are talking about the refugee crisis—it is not a migrant crisis, and we must ensure that we describe people as refugees.

As Alison McInnes said, separated and unaccompanied children are very vulnerable. At this morning's meeting of the European and External Relations Committee, we heard from people who have just returned from Lesbos, who told us that children as young as 10 are travelling on their own. The children have been separated or are unaccompanied, and some are being indentured into becoming traffickers themselves. This is a huge issue. If we give such young people the right support, at the right time and with the right guardian, we might start to break the cycle that is going on in Lesbos and other islands, in Turkey and in some of the refugee camps across Europe and beyond.

On amendment 9, I take up the cabinet secretary's request that we get involved. It is important that all children receive the support and protection that they justly require, and a multi-agency approach has always been the best way of doing that. As we consider enabling authorities in that regard, we should look at the first responder

process in the children's hearings system, to ensure that the best holistic approach is taken to a young person, for all the reasons that I gave.

*Amendment 7 agreed to.*

*Amendment 17 moved—[Jenny Marra].*

**The Deputy Presiding Officer:** The question is, that amendment 17 be agreed to. Are we agreed?

**Members:** No.

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

#### For

Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Gavin (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Davidson, Ruth (Glasgow) (Con)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Finnie, John (Highlands and Islands) (Ind)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Annabel (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Wilson, John (Central Scotland) (Ind)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)

Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hume, Jim (South Scotland) (LD)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McInnes, Alison (North East Scotland) (LD)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 44, Against 62, Abstentions 0.

*Amendment 17 disagreed to.*

**The Deputy Presiding Officer:** We move to group 8. Amendment 18, in the name of Jenny Marra, is grouped with amendments 8, 19 and 20.

**Jenny Marra:** Amendment 18 would correct a weakness in section 8B by providing statutory authority for the guardian's functions. Section 8B(7) confers on the Scottish ministers an enabling power to make regulations about a

number of detailed aspects of the guardian system, including guardians' functions. I welcomed the commitment to making regulations that the cabinet secretary gave at stage 2 in response to an amendment that I lodged, which would have turned the power into a requirement. However, as I said, the power in section 8B(7) enables ministers to bring forward regulations on different elements of the guardianship scheme, and the cabinet secretary has not specifically committed to making regulations about guardians' functions.

Let me explain why I am highlighting this aspect. If guardians are to support children effectively, they will need a degree of authority, and their role and position will need to be understood and respected by other professionals who work with children. That is recognised in section 8B(6), which requires that anyone who is exercising statutory duties

"in relation to a child for whom an independent child trafficking guardian has been appointed under this section must recognise, and pay due regard to, the guardian's functions."

If those functions are not clearly articulated and given statutory authority, meeting that requirement will be much more complicated. By putting guardians' functions in statute, we will facilitate smooth and effective co-operation between the guardian and other professionals and agencies that are working with the child.

15:45

It is for reasons such as those that the European Union Agency for Fundamental Rights handbook on guardianship for trafficked children recommends that

"National law should provide the legal basis of guardianship and define the authority responsible for it ... The legal basis of guardianship in national law should include sufficiently precise legal provisions defining a guardian's duties and functions."

Section 8B does not contain precise provisions that define the guardian's duties and functions and nor does the enabling power guarantee the creation of regulations to meet that requirement.

Even the Modern Slavery Act 2015, which provides advocates for trafficked children—although the outcome of trials must be awaited before that help is made available—more widely meets that requirement. That act states specifically that the advocate's functions must be set out in regulations.

Northern Ireland's legislation goes further; it sets out the functions of independent guardians in the primary legislation. It would be a great shame to finish this process with a weaker statutory framework than the rest of the UK has, after

Scotland led the way by introducing the Scottish guardianship service several years ago.

I recognise that regulations provide some benefits of flexibility. Amendment 19, in my name, would provide that flexibility by including a power for the Scottish Government to add to the list of guardians' functions through subsequent regulations. That would make it simple to add to the guardian role any additional responsibilities that are considered necessary in the future.

The essential functions of the guardian that are included in amendment 18 are based on those in the Northern Ireland legislation, which was recommended as a model by expert groups such as the Scottish guardianship service and ECPAT UK during stage 1. The functions also reflect the responsibilities that are recommended in guidelines from international expert bodies, including the EU Agency for Fundamental Rights handbook that I referred to as well as guidelines produced by UNICEF and the United Nations. Those functions are not a dramatic departure from those of the Scottish guardianship service, which already operates in line with international principles.

Amendment 20 would amend section 37 of the bill to require any regulations that were laid under that section about the guardian's functions—whether they were regulations about functions under the existing power or regulations about further functions under amendment 19—to be made under the affirmative procedure. That would ensure that Parliament could scrutinise any proposed functions for the guardian role and would help to ensure that guardians had the necessary responsibilities to support children effectively and that the role incorporated all the expert recommendations of international best practice.

I move amendment 18.

**Michael Matheson:** I will first speak to my amendment 8 before dealing with Jenny Marra's amendments 18 to 20. Stakeholders' views are that guardians will be best able to carry out their role by having access to as much relevant information as possible about the child. Section 8B(6) provides that any person who provides services or takes decisions in relation to a child for whom a

"guardian has been appointed ... must recognise, and pay due regard to,"

the independent child trafficking guardian's functions.

My amendment 8 will amend section 8B to oblige such persons to also provide the independent child trafficking guardian with access to such information relating to the child as will

enable that guardian to carry out their functions effectively. I ask members to support amendment 8.

Jenny Marra's amendments also deal with functions. Amendment 18 seeks to put certain functions of the guardian in the bill. Making that provision without proper consultation with stakeholders would involve significant risks. That is why we want to make legislative provisions on guardians through regulations, which will be made under the bill. By specifying the functions in regulations, rather than in the bill, we will have the opportunity to consult and involve the stakeholders who will work with children, to properly identify what the functions of the guardian will be.

That approach will help us to get the secondary legislation absolutely right. It will also give us the flexibility to add to or amend the functions as needed in order to take account of any emerging changes. The strategy that is being prepared in connection with the bill can help to reinforce the legislation by also referencing the functions.

Our approach will ensure that the functions that are identified are specified via legislation and on the basis of consultation and evidence, so they will be relevant to ensuring that the guardian is able to undertake their role effectively.

For the reasons that I have set out, I do not support amendment 18 and the related amendments 19 and 20, and I encourage Jenny Marra not to press amendment 18. If it is pressed, I urge members to reject it and amendments 19 and 20, but to support my amendment 8.

**The Deputy Presiding Officer:** I invite Jenny Marra to wind up and to press or seek to withdraw amendment 18.

**Jenny Marra:** I have nothing further to say. I press amendment 18.

**The Deputy Presiding Officer:** The question is, that amendment 18 be agreed to. Are we agreed?

**Members:** No.

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

**For**

Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Gavin (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Davidson, Ruth (Glasgow) (Con)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Annabel (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)

Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahon, Michael (Uddingston and Bellshill) (Lab)  
 McMahon, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)

Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wilson, John (Central Scotland) (Ind)

**The Deputy Presiding Officer:** The result of the division is: For 42, Against 63, Abstentions 0.

*Amendment 18 disagreed to.*

*Amendment 8 moved—[Michael Matheson]—and agreed to.*

*Amendment 19 moved—[Jenny Marra].*

**The Deputy Presiding Officer:** The question is, that amendment 19 be agreed to. Are we agreed?

**Members:** No.

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

#### For

Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Gavin (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Davidson, Ruth (Glasgow) (Con)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Annabel (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)

McInnes, Alison (North East Scotland) (LD)  
 McMahon, Michael (Uddingston and Bellshill) (Lab)  
 McMahon, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)

Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wilson, John (Central Scotland) (Ind)

**The Deputy Presiding Officer:** The result of the division is: For 41, Against 65, Abstentions 0.

*Amendment 19 disagreed to.*

*Amendment 9 moved—[Michael Matheson]—and agreed to.*

### Section 32—Review and publication of strategy

**The Deputy Presiding Officer:** We move to group 9. Amendment 10, in the name of the cabinet secretary, is the only amendment in the group.

**Michael Matheson:** At stage 2, Alison McInnes lodged an amendment to put a maximum of one year between the commencement of parts 1 and 2 and the publication of the trafficking and exploitation strategy. Although I was happy to commit to publishing the strategy within a suitable timeframe and supported the intention behind the amendment—to ensure that there was no unnecessary delay in publishing that important document—I had minor concerns about the amendment as it stood. I therefore agreed to lodge an amendment at stage 3 that would require publication of the first strategy to take place quickly.

I considered a number of options on the timescale, and I take the view that linking the deadline for publication of the strategy to the commencement of section 1 best delivers what Alison McInnes wished to see. The commencement of section 1 will bring the offence of human trafficking into being and is the logical basis for the clock to start running on the requirement to publish the strategy.

I move amendment 10.

*Amendment 10 agreed to.*

### Section 37—Regulations

*Amendment 11 not moved.*

*Amendment 20 moved—[Jenny Marra].*

**The Deputy Presiding Officer:** The question is, that amendment 20 be agreed to. Are we agreed?

**Members:** No.

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

**For**

Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Gavin (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Davidson, Ruth (Glasgow) (Con)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Annabel (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

**Against**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Ind)

FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wilson, John (Central Scotland) (Ind)

**The Deputy Presiding Officer:** The result of the division is: For 42, Against 64, Abstentions 0.

*Amendment 20 disagreed to.*

**Section 41—Commencement**

*Amendments 21 and 22 not moved.*

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

## Human Trafficking and Exploitation (Scotland) Bill

### The Deputy Presiding Officer (John Scott):

The next item of business is a debate on motion S4M-14421, in the name of Michael Matheson, on the Human Trafficking and Exploitation (Scotland) Bill. I call Michael Matheson to speak to and move the motion.

15:57

**The Cabinet Secretary for Justice (Michael Matheson):** I am pleased to open the stage 3 debate on the Human Trafficking and Exploitation (Scotland) Bill. I thank the members and clerks of the Justice Committee, the Finance Committee and the Delegated Powers and Law Reform Committee for their consideration of the bill. I also thank external stakeholders who have engaged in the bill process and have helpfully taken the time to share their knowledge and expertise. In addition, I thank the assistant commissioner for Scotland from the Information Commissioner's Office for his assistance and kind offer to work with my officials, if Parliament agrees to pass the bill, to develop regulations, guidance and a privacy impact assessment. That will help to ensure that information sharing under the terms of the bill will be carried out appropriately and firmly within the parameters of data protection law.

The Justice Committee invited a wide range of stakeholders to give evidence at stage 1. That evidence, as well as the committee's stage 1 report, which supported the general principles of the bill, proved to be extremely helpful in assisting the Government to reflect carefully on how the bill could be refined and enhanced. Stage 2 resulted in a number of improvements to the bill and provided us with some food for thought ahead of stage 3.

The bill will clarify and strengthen criminal law by introducing a new and comprehensive single human trafficking offence. The new offence increases to life imprisonment the maximum penalty for offenders.

The bill gives Scotland's law enforcement agencies further tools in their locker to bring to justice those who are responsible for human trafficking and exploitation. It will enable them to prevent the commission of those grave offences, through enhanced forfeiture and detention powers, and through new trafficking and exploitation prevention orders and risk orders.

The legislation will ensure that adult victims of trafficking will now have a statutory entitlement to support and assistance that meets their individual needs, which may include, among other things,

accommodation, medical advice and treatment, and legal advice.

Scottish ministers will be under an obligation to work with other bodies to publish and to keep under review a Scottish trafficking and exploitation strategy that focuses on matters including awareness raising, prevention and detection of trafficking and exploitation, and the support that is available to victims of those offences.

Research from the National Crime Agency human trafficking centre estimates that there are up to 13,000 potential victims of slavery in the United Kingdom. The bill deals with labour exploitation of the most serious kind and is supplemented by the UK-wide "Transparency in supply chains etc" provision in section 54 of the Modern Slavery Act 2015, on which we worked closely with the UK Government.

Beyond that, the provision on "Exploitation for purposes of human trafficking offence" covers a wide range of exploitative conduct. We are aware that some stakeholders expressed concern at stage 1 that children are not specified on the face of the bill: the majority of provisions within the bill apply equally to adult and child victims of trafficking. However, it should be noted that the provisions relating to support for victims are explicitly aimed at providing a statutory basis for support and assistance for adult victims of trafficking. That is because the necessary support for children who may be victims of trafficking is already enshrined in legislation that provides for all vulnerable children.

We welcomed and supported the amendment from Alison McInnes at stage 2 that added an aggravation for the offence of human trafficking when a child is involved. We also supported Christina McKelvie's amendments at stage 2 that placed a duty on Scottish ministers to make such arrangements as they consider reasonable to enable an independent child trafficking guardian to be appointed to assist, support and represent a child where it is reasonably believed that the child may have been the victim of human trafficking. We supported those amendments because we know that there is little, if anything, more despicable than the deliberate exploitation of children, and it is often the most vulnerable who suffer most. In contrast, we want to create a society in which all children and young people have the right to be cared for and protected from harm, and can grow up in a safe environment.

Child victims of trafficking are supported within the well-established systems that we have in place in Scotland to support our most vulnerable children. We are absolutely clear that the primary responsibility for child victims of trafficking should remain firmly within the child protection framework. That framework embodies the key principles of



getting it right for every child, of which early intervention and wellbeing are key factors. We believe that this is the most effective way to support the recovery of children and young people who have been traumatised.

The bill introduces two duties for the provision of a guardian for eligible children. There is a duty on ministers to ensure that there is a guardian service available, and the second duty is on relevant authorities to refer the child to the guardian. On referral, the child is appointed a guardian who will represent a point of contact and expertise for them. As those children are unaccompanied—that is, there is no one with parental rights and responsibilities for them in the UK—the role of that guardian will be to provide them with a level of acceptance and guidance that will help them in a very difficult set of circumstances. The role of the guardian will be to advise on all sorts of matters; for instance, to make the young person aware of their rights and to explain to them aspects of the asylum, trafficking and welfare systems. They will also introduce them to social opportunities to help them to begin to reintegrate into community life.

Through our having created those two duties and by not putting the guardianship service itself on a statutory footing, the guardian will be able to act in the best interests of the child first, by putting them and not the process—to which a statutory body would be bound—at the centre of the service.

We amended the bill at stage 2 to ensure that victims of trafficking whose age is uncertain but who appear to be children are presumed to be children for the purpose of receiving immediate age-appropriate support and services, until their age is formally established.

Given that many children across the world are being displaced as a result of conflict, poverty and persecution and might fall victim to trafficking or exploitation, it seems timely that we are taking these steps to provide further support to young victims of trafficking. However, we all know that legislation alone is not the answer to the problem. The Government's programme for Scotland for 2015-16 sets out our commitment to work with key agencies to develop a strategy against human trafficking and exploitation, and I assure Parliament that dialogue with stakeholders will continue as we develop our strategic approach and the strategy itself. Human trafficking and exploitation are brutal forms of organised crime in which adults and children are treated as commodities and ruthlessly exploited for criminal gain, and there is no place for it in modern Scotland.

I move,

That the Parliament agrees that the Human Trafficking

and Exploitation (Scotland) Bill be passed.

16:06

**Jenny Marra (North East Scotland) (Lab):**

Over the past four years, this Parliament and this Government have travelled far, from human trafficking being a crime that not many people in this building talked about to the point at which there is vastly increased political and public awareness in Scotland of what is a heinous crime. The bill, which will become law this afternoon, has been instrumental in that process. Many people have played a key role, and I put on record my personal thanks to some of them: Graham O'Neill, Ross McKenzie, Bronagh Andrew, the cross-party group on human trafficking, the civil servants and the cabinet secretary, who has taken the bill through its last stages.

I say "its last stages"—I should point out that the bill has been nearly four years in the making. It dates back to Baroness Helena Kennedy's inquiry into human trafficking in Scotland, the report of which was published in November 2011. That report contained 10 key recommendations on tackling the crime of human trafficking in Scotland, many of which are to be found in the bill that we will pass this afternoon.

We had an extensive and comprehensive consultation, and such was the public interest in the campaign that we found ourselves with more than 50,000 responses—the third highest response rate in the Parliament's history. The number of public responses was eclipsed only by those for the legislation on equal marriage and the ban on smoking in public places. For their mobilisation of the public interest, I must put on record my thanks to ECPAT UK, CARE for Scotland, the walk free movement and, in particular, the Scottish churches. Campaign organisations should look to them as examples of excellence in public campaigning.

I also acknowledge the sustained reporting of the trafficking issue by the Scottish media, which throughout this campaign have taken their responsibility for shining a light into our nation's dark corners very seriously. The story is often not easy to report; the victims are so vulnerable that it is extremely difficult, if not impossible, for them to tell their story in a public forum. It is for that very reason that I have never met a victim of human trafficking. However, it is my duty, and the duty of everyone in the Parliament, to speak up for the voiceless and to use the powers of this place to improve our society and constantly make our communities more resilient against gendered, exploitative and violent crime and constantly strengthen the resolve to respect human rights across the country.

I think that the bill turned our current political narrative about powers on its head, because it starts from the premise that we will combat the crime of trafficking only by making our communities robust against it at the grass roots.

Trafficking is an international crime that is motivated by vast profits. Criminal gangs will always find ways to get people into host countries, and they will be steps ahead of law enforcement as they do so. Therefore, it was not good enough to lay blame squarely at the door of the UK Border Agency and dismiss trafficking as an immigration problem. That is why the bill takes an approach that involves strengthening communities against the crime of trafficking and thereby making Scotland a place where the crime is not welcome, victims are more easily identified, intelligence to catch traffickers improves and our police, legal and court system knows how to deal with the people responsible.

Are we at that stage yet? I do not believe that we are. Today is not the end of a process; it is simply the first day in our fight against trafficking in Scotland. We know that legislation is not enough. We have another human rights law in this country that makes female genital mutilation a crime, yet there has not been one police report or prosecution relating to FGM in Scotland, even though we know that it is happening in our communities. That is why it was critically important that the Human Trafficking and Exploitation (Scotland) Bill should pave the way for the future. Legislation is never enough.

The bill places a duty on the Scottish Government to publish a three yearly anti-slavery strategy. I hope that that strategy will include training for our doctors, nurses and health professionals on how to recognise potential victims of trafficking when they present themselves. We know that trafficking victims rarely self-identify due to fear—fear for their own safety and fear of reprisals on their families back home. I also want social workers to be trained, so that they, too, can identify these vulnerable people when they work with them and know what resources are in their hands to help them.

I would like to see our lawyers of the future taught about the crime of human trafficking in criminal law courses in universities, so that when they mark cases they recognise the crime when they are presented with the evidence. I want our police officers—not just those who police our borders, but police in every community across our country—to have an understanding of the crime so that when they see it they investigate it and refer it up through our legal system. Only when our communities are robust in that way will the traffickers take note and consider Scotland too

risky a place for their crime and human rights abuses.

I understand that the Scottish Government already has civil servants working on the strategy, but I hope that some of my suggestions can be taken on board. I ask the cabinet secretary to address how the strategy will be delivered, who will co-ordinate it and whether that work will be led by a group that is accountable to the Scottish Government. More detail on that would be welcome, whether today or in the near future.

This morning, in Glasgow, I met women in the trafficking awareness-raising alliance, who work every day supporting victims of human trafficking. Their working day today and tomorrow will be the same as it was yesterday—they will be supporting women whose harrowing experiences we can only imagine. However, today we enshrine the support that they give into a right that can be expected in our country. For our country to marshal the resources to look after vulnerable people is the civilised thing to do. Today we give legal guardians to children who have been trafficked. Today we strengthen our law and increase sentences for criminal traffickers. Today, most importantly, we reiterate our resolve to protect and guard human rights in Scotland. It is a proud day for the Scottish Parliament and for our mission as public servants to shine a light in the dark corners of the world and bring hope and respect to those who need it.

16:13

**Margaret Mitchell (Central Scotland) (Con):** I very much welcome this stage 3 debate. I thank the Justice Committee convener, clerks and members for their hard work. In particular, I pay tribute to the witnesses for their evidence at stage 1. There is no doubt that the bill is far better than it was, and that it has benefited from their expertise and experience on the front line.

A case in point is the new definition of trafficking in section 1, which is phrased now in such a way that there can be no ambiguity that the offence of trafficking can happen within a country as well as between countries. The Lord Advocate was reluctant to accept that the previous definition was open to interpretation. I am, therefore, pleased that the cabinet secretary has listened to the wise comments of those who gave evidence on that point.

I also thank Jenny Marra and acknowledge the crucial part that she has played in ensuring that we now have legislation in Scotland that is aimed at bringing human trafficking to an end. Without her persistence, we would not be voting to pass the bill this evening.

The bill has become all the more pertinent given the now sadly all-too-familiar and harrowing refugee crisis—a crisis that is increasingly dominating the minds of politicians not just in Scotland and the United Kingdom but in the European Union and globally. I am pleased that we agreed to the amendment in Christine McKelvie's name that extends the provision of a guardian to children who are vulnerable to trafficking. It is estimated that one in four of the thousands of refugees and migrants who are now travelling to Europe in horrendous circumstances are children who are not accompanied by an adult. Those same children are being targeted by traffickers, which makes the need to provide them with a guardian all the more pressing. In the circumstances, it is essential that we do absolutely everything we can to give them the protection that they both need and have a right to expect.

However, it is particularly depressing that the Government chose to vote down the amendment in my name that would have provided those young people with an additional protection in the form of a statutory defence. Such a defence would have been over and above the presumption against prosecution and the Lord Advocate's instructions. Consequently, an opportunity has been missed to ensure that, under the bill, vulnerable children and young people have maximum protection, or even the same protection that children and young people will enjoy under the trafficking legislation in England and Wales and in Northern Ireland.

I turn to Rhoda Grant's amendments on the criminalisation of the purchase of sex, which we discussed at stage 2. I said then that I did not believe that the bill afforded us the proper time to take evidence on that important issue. Therefore, although I had some sympathy with the amendments that she lodged at stage 3 regarding research, I believe that the forthcoming abusive behaviour and sexual harm bill will present an excellent opportunity to consult widely on the issue and ensure that the necessary scrutiny is carried out. I hope that Rhoda Grant and the Scottish ministers can work together to achieve that aim.

The cabinet secretary may recall that, at stage 1, I asked about the UK Government pilot that is looking at two areas, Cornwall and West Yorkshire, to discover how the national referral mechanism is working regionally. I understand from the Scottish Government's response that Scotland was not chosen because there were not sufficient numbers here to make a pilot viable. However, at the time, the cabinet secretary undertook to get more details from the Home Office. Given the number of cannabis farms that are being discovered—they are being discovered almost on a daily basis—and the link between cannabis workers and trafficking, I ask whether he

can provide an update on the issue in his closing remarks.

I confirm that the Scottish Conservatives will vote for the bill this evening.

16:19

**Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP):** It is a real privilege to speak in the debate. We would not be here if it were not for the many individuals and groups—there are a few of them sitting in the gallery today—including the cross-party group on human trafficking, who have pushed and encouraged us along, educating and supporting us to bring us to where we are today. Jenny Marra kicked off the process with her consultation for a proposed member's bill, and we are happy to have worked together to get to this point.

At lunchtime, Jenny Marra and I were happy to go out and collect a petition from ECPAT UK, walk free and Christian Action Research and Education. At that point, the petition had more than 6,000 signatures, which demonstrates clearly that people right across the UK support the aims of the bill, especially when it comes to protecting children. I hope that the cabinet secretary will accept my copy of the petition at the end of the debate on behalf of those groups.

The horrific crime of human trafficking is sometimes called modern-day slavery. The exploitation of humans—women, men and, most disturbingly, children—is one of the most disgusting crimes. I say "crimes" because today we make that practice a crime.

It has truly been a cross-party process in getting to this point. We have all worked to ensure that this is the best piece of legislation. I thank my colleagues for that cross-party support.

At today's European and External Relations Committee we had a round-table session about the refugee crisis in Europe and beyond. Professor Alison Phipps, who is from the Glasgow refugee, asylum and migration network at the University of Glasgow, told us that unaccompanied children as young as 10 are being indentured by trafficking gangs. For example, some 14, 15 and 16-year-olds are given keys to a boat and a gun and forced to load up people and make the treacherous journey across the Mediterranean. It is at that point that we understand not only how huge the organisation behind trafficking is but how huge the impact on people is. We potentially have young people in the system who have been trafficked and indentured into gangs subsequently becoming traffickers themselves. It is in those circumstances that parts of the legislation become very important, because we will describe those young people not as criminals but as victims. That

issue is part of the Lord Advocate's guidance, which I welcome.

The refugee crisis creates so many opportunities for traffickers. Trafficking is not new, but we will see a huge amount of it over the next few months when we start to accept people in this country. We should be accepting far more than the 20,000 refugees that I suspect the UK Government wants to go with.

I recommend that colleagues in the chamber watch a film that we screened in the Parliament called "Nefarious: Merchants of Souls". They will then truly understand how organised and horrific the crime of trafficking is.

I am very happy that we have strengthened the bill today to protect children and to bring in child guardians. I have been ploughing this furrow long before I was an elected politician, as a member of the Glasgow campaign to welcome refugees and as a Unison shop steward.

We pass lots of legislation in this place, and most of the time we are very pleased with it. When we press our voting buttons at 5 o'clock today, we will create a system that says to traffickers, "You are not welcome. Scotland is closed," and to trafficked people, especially children, "This is your sanctuary. We will help you make this your home."

I look forward to working with all my colleagues across the chamber and in civic Scotland to bring about the best strategy. The cabinet secretary may see the passing of the bill as the end of a process but, as Jenny Marra said, for some of us, it is just the start. We are looking forward to working with him to bring about a strategy that gives the best support and the best protection.

16:23

**Rhoda Grant (Highlands and Islands) (Lab):**

It is almost 200 years since we thought we had abolished slavery, yet today we are passing legislation to tackle modern-day slavery—human trafficking. I pay tribute to Jenny Marra, who was first to raise the issue in the Parliament and who later introduced a proposal for a member's bill. She takes much of the credit for the bill that is in front of us. I also pay tribute to the many organisations, groups and individuals who have campaigned for this day, too. The Scottish Government recognised the importance of the issue and, in effect, took over her bill; hence we will be voting today on Government legislation.

It is impossible to imagine what it is like to be trafficked. Some people are abducted; others believe that they are being assisted towards a new life and are duped into becoming victims. Some are groomed to such an extent that they believe that they are acting of their own free will, working

to pay off debts that they incurred for being smuggled into the country. That makes them very vulnerable because they believe that they are in control of their own destiny and are the ones committing the crime. It will take a long time to win their trust and confidence to the extent that they will accept help and support.

As we legislate to tackle one form of human exploitation, others raise their heads. Of late, we have heard about people smugglers, who prey on the desperation of refugees who are fleeing for their lives. Many of those people are not poor and have money to pay the smugglers who take them on hazardous journeys. The risks that they take are testament to the difficulties that they face at home. The bill does not deal with those issues. We need a compassionate and practical global solution to help people in those situations. Due to the risks that they take, many children and young people are left fleeing alone because their parents are killed. They are often the target of traffickers who are ready to prey on them.

I am disappointed that the Scottish Government has not strengthened the bill with regard to people who are trafficked for sexual exploitation, which is one of the main focuses for traffickers. It is a hugely lucrative business because the people who are being exploited can be sold again and again. Only by tackling prostitution and sexual exploitation with regard to the whole population will we be able to make that trade less attractive to traffickers. That said, the bill covers much of the sexual exploitation industry, albeit that it does not deal with the market for exploitation or the complex assistance that victims require.

The bill is not limited to trafficking from abroad; it covers trafficking everywhere. For example, it covers instances such as that in Rotherham, where young women were trafficked and exploited within the city boundaries. There are powers that, if used properly, can offer protection and redress to people who are exploited in their own towns and cities as well as people who come from abroad. The bill is explicit that the trafficking can take place within the UK.

With regard to prostitution, section 3(3) states that a person is exploited if

"Another person exercises control, direction or influence over prostitution by the person in a way which shows that the other person is aiding, abetting or compelling the prostitution."

Many people who are in, or have exited, prostitution tell me that they were held in such circumstances. I hope that the bill will go some way to offering them protection. The police, who have led the way in fighting violence against women, will have an additional tool to use to do that. I wish that the Scottish Government would show vision on the issue. That said, I sincerely

hope that the work that it is carrying out leads to Scotland becoming a less attractive place for traffickers.

The bill that we will pass today will make a huge difference to the lives of the most vulnerable in our society. I congratulate Jenny Marra on instigating the process and recommend the bill to the chamber.

16:23

**Alison McInnes (North East Scotland) (LD):** I commend Jenny Marra for her drive and determination on human trafficking. We must not forget that her member's bill consultation laid the foundations for this Government bill. However, Christina McKelvie is right to point also to the cross-party support and determination in the chamber.

Human trafficking is not new, but it is now the fastest-growing international crime. The Equality and Human Rights Commission report of 2011 was the catalyst for action to tackle human trafficking through a coherent legislative framework. That report exposed the grim truth about trafficking in Scotland. It shocked us all. In 2011, Kallian Lyle, EHRC Scotland commissioner, said:

"Human trafficking is one of the most severe human rights abuses in the modern world. It operates below the radar and is kept there through fear and deception. The experiences of those who are trafficked here are often nothing short of brutal and, in the main, they are carefully hidden from society. The responsibility for tackling trafficking should be shared across agencies, with governments, and with society itself."

Many victims are exploited in the sex industry, fruit picking or the hospitality industry or are forced to live in brutal conditions as domestic servants. Trafficking occurs throughout Scotland and is not confined to its major cities.

The bill, as introduced, failed to recognise the acute vulnerability of child victims of trafficking. It did not contain a definition of a child nor specify the support to which children would be entitled.

The Government has shown that it is willing to listen to those of us who have campaigned on these issues and has largely either supported the amendments from Jenny Marra, Christina McKelvie and me or agreed with the intention behind our amendments and introduced Government amendments today. There is no doubt that, in its final form, the bill is much improved. It now includes statutory guardianship services, recognition that other relevant authorities have a role in referrals to those services, and the provision of guardianship not just to identified victims of trafficking but to those who are

vulnerable and may have been trafficked but whose status is still in question.

During the earlier stages of the bill, with support from Aberlour Child Care Trust and Barnardo's Scotland, I highlighted the importance of creating such a presumption, so I am particularly pleased that the Scottish Government reconsidered its position on that, meaning that all unaccompanied children will now have an independent guardian. It is right to pay tribute to the Scottish Refugee Council and Aberlour for pioneering the Scottish guardianship service and proving its worth. In just five years, it has helped more than 70 children and young people who have been victims of human trafficking.

The bill now also provides for statutory aggravation in sentencing for a trafficking offence involving a child, and a presumption of age, which ensures that if a person is detained and there are reasonable grounds for believing that the person may be a child, they will receive the type of support that a child would get until their age is confirmed. I support the further changes today that ensure that the evidential test in the Lord Advocate's instructions for the prosecution of child victims is different and simpler.

Although the bill is an important step on the road to making Scotland a no-go area for human trafficking, there are many more steps that we will have to take together as a society if we are to end these brutal human rights abuses. Today, coincidentally, the historical child abuse inquiry starts its work. The inquiry addresses a monumental failure to understand and take action. Over and over, we have missed human rights abuses going on in our midst. In the past, we struggled to admit that crimes as dreadful as child sexual abuse, domestic abuse or grooming could be committed. That is why traffickers are getting away with their crime. There is still little public awareness of the crime of trafficking. We need to get much better at looking and listening to what is going on in our midst and in the margins.

The Scottish Liberal Democrats will support the bill today.

16:32

**Sandra White (Glasgow Kelvin) (SNP):** Rhoda Grant said that we thought that slavery had been abolished 200 years ago. Human trafficking is a modern-day type of slavery and should be tackled. That is why I welcome the bill.

I particularly welcome the strategy and the duty that is placed on ministers to develop it and keep it under review. Graham O'Neill from the Scottish Refugee Council was right when he said that

"the strategy will be the vehicle for the long-term approach that we need if we are going to tackle such a severe crime

and human rights violation.”—[*Official Report, Justice Committee*, 3 March 2015; c 6.]

He is right when he talks of human trafficking as a severe crime that violates human rights. As we have heard today, human trafficking takes many forms.

Jenny Marra mentioned that she has not met a victim of human trafficking. I have met such a victim, although perhaps that did not happen in the way that a lot of people explain it. This person was brought into the country under false pretences. His passport was taken from him and he was moved from house to house. I will not say what industry he worked in, but it was a service industry. It was very difficult for him and his family, who were still abroad. He had no passport and very little in the way of wages. Most of his salary was taken from him, supposedly to pay his rent, which was for a bed on the floor of a cramped room with about 10 other people. Human trafficking takes many forms.

Christina McKelvie mentioned Alison Phipps, who gave a powerful speech on Tuesday night at the meeting that I mentioned in the members' business debate this afternoon. Alison spoke about 10-year-olds being exploited by traffickers who were using the refugee situation to exploit vulnerable children.

In the time that I have left, I will touch on Rhoda Grant's amendment 3. I was a member of the Justice Committee at the beginning of its consideration of the bill, but I was not on the committee for stage 2. However, I understand that no evidence was taken at stage 2 about the subject of amendment 3. Through amendment 3, Rhoda Grant sought

“to introduce legislation to criminalise the purchase of sexual services.”

She was not so much lodging an amendment as attempting to introduce a whole new bill within another bill. Although I sympathise with her and have met her and various groups to discuss the issues, I do not think that the bill is the proper vehicle for such a provision.

**Rhoda Grant:** I clarify that my amendment 3 allowed for the Government to report back; it would not have required the Government to put forward legislation as Sandra White suggests.

**Sandra White:** Perhaps I am reading the provision wrongly, but Rhoda Grant's proposed subsection (7) states:

“The response must in particular set out the Scottish Ministers' plans ... to introduce legislation to criminalise the purchase of sexual services.”

That is where the problem lies. I sympathise with the intention, as Margaret Mitchell and other members said that they do, but a bill that deals with trafficked people is not the proper vehicle for

such a provision. A Government cannot be asked to introduce in its own bill provisions from a member's bill that has previously fallen.

**Rhoda Grant:** Will Sandra White give way?

**Sandra White:** Have I got time, Presiding Officer?

**The Deputy Presiding Officer (Elaine Smith):** Very briefly.

**Rhoda Grant:** I briefly refer Sandra White to proposed subsection (8) in my amendment, which allowed ministers not to bring forward the legislation.

**Sandra White:** I question why Rhoda Grant would want to put the provision in the bill if she wanted ministers to be able to take it out again.

After the provision on introducing legislation, proposed subsection (7)(b) in the amendment states that the ministers should set out plans

“to repeal any enactment which criminalises the selling of sexual services.”

One provision seems to cancel out the other, so the amendment does not appear—at least in my view—to be competent.

16:37

**Malcolm Chisholm (Edinburgh Northern and Leith) (Lab):** As Jenny Marra said, today is a proud day for the Scottish Parliament and it has been four years in the making. However, as she reminded us, it is merely the first step in the fight against human trafficking. What happens from now on will determine how successful the bill is.

There are many people to thank. I congratulate the Government; the committee; the cross-party group on human trafficking; many external groups, such as the trafficking awareness-raising alliance; the 50,000 people who responded to the consultation; and most of all Jenny Marra, without whom we might not have a bill and who, a few moments ago, made one of the most eloquent and impassioned speeches that I have ever heard in the Parliament.

We are all united today, although there were some differences among us at the final amendment stage. We were united in particular around part 1, and I know that we are all pleased to see the grave and brutal offence of trafficking clearly and explicitly laid down in Scots law with severe sentencing consequences.

There were some disputes about part 1—Margaret Mitchell spoke about the statutory defence issue, for example. On Rhoda Grant's amendment 3, I repeat what I said earlier: there is a strong link between the sex trade and human trafficking. Jenny Marra wanted to make it clear

through one of her many amendments that the criminal offence covers all forms of exploitation. However, those differences notwithstanding, there was strong agreement on part 1.

The key issue now is having a robust strategy for bringing the offenders to justice. Much of the bill is about the protection of victims, and vulnerability is a salient feature in all instances of trafficking. Some concerns were expressed at stage 1 in that regard, and I—and many others—made the point that the provision for counselling was not strong enough. I am pleased that an amendment was accepted at stage 2 to strengthen the provision to include psychological assistance and support; I am not sure that those were the exact words in the amendment, but that was its intention.

There were particular concerns at stage 1 about the vulnerability of children, and that is an area in which our committee scrutiny and amendment process has strengthened the bill considerably. Christina McKelvie lodged an amendment on guardians at stage 2, and those provisions were further reinforced by various amendments that have been agreed to today. However, I regret that Jenny Marra's amendments 17 and 18 were not agreed to, as they would have clarified the role and ensured that it was fully comprehensive.

The right to support and assistance is an important part of the bill. As we heard from the cabinet secretary, much of that is to be dealt with through regulation, so we will take a close interest in that. I regret that Jenny Marra's group 6 amendments and her proposals on immediate support and other matters were not agreed to. I hope that all that will be dealt with satisfactorily in the regulations.

As I did at the beginning, I quote Jenny Marra in saying that this is the first day in the fight against trafficking. The three-year anti-slavery strategy will be crucial, so I say well done to Alison McInnes for ensuring that it will be produced within a year of the bill coming into force. We clearly need the strategy to cover awareness raising, prevention and detection and, of course, we need more about support, which is crucial.

An awareness campaign is crucial to ensure that we help victims to escape the clutches of traffickers. As Jenny Marra said, communities are crucial in that. We need to make communities robust against the causes of trafficking and ensure that there is awareness-raising training for front-line staff, which Jenny Marra proposed.

I told Jenny Marra that I would mention her six times. I think that I have exceeded that, but that is not inappropriate in the context of the bill, which I warmly welcome.

**The Deputy Presiding Officer:** We turn to closing speeches. I call Jamie McGrigor.

16:41

**Jamie McGrigor (Highlands and Islands) (Con):** I apologise, Presiding Officer, for not being here for the opening speech by the cabinet secretary.

I am delighted to have the opportunity to make closing remarks in today's stage 3 proceedings on the Human Trafficking and Exploitation (Scotland) Bill, but before I turn to the task at hand, I thank the Justice Committee for its very good scrutiny of the legislation, and I thank the stakeholders who provided invaluable evidence and contributions throughout the bill's parliamentary passage, including the organisations that have provided briefings today.

I particularly welcome the cross-party consensus that legislation is required to combat this insidious practice, which is certainly not new but which is nevertheless increasingly pervasive. In May this year, it was reported that eight people were successfully rescued in human trafficking raids across Scotland in Lanarkshire, Tayside, Fife and Dumfries and Galloway. It has further emerged that Scots cannabis farms, which themselves are obviously illegal, frequently use trafficked children for labour. Women are also trafficked with increasing regularity from west Africa, Europe and south-east Asia to Scotland, where a life of servitude and inhumane treatment often awaits them. It is an appalling practice that cannot be allowed to continue.

Because human trafficking is a largely hidden crime, it is, of course, difficult to quantify its exact extent across the UK. My understanding is that, in 2013, there were 55 victims in Scotland and as many as 4,000 across the United Kingdom. No doubt, many more than that go undetected. Clearly, action is urgently required, so I am pleased that the Scottish Government has moved swiftly to legislate on the issue, as have the Westminster Government and the Northern Ireland Executive. The Scottish Government has rightly recognised the cross-border nature of the crime and is co-operating closely with the UK Government to ensure, where practical, a co-ordinated approach on the issue.

I agree with Alison McInnes's points about the evil nature of the crime. We all remember the tragedy of the cockle pickers in Morecambe Bay, who were victims of people trafficking.

Despite the comments on protection of victims that Margaret Mitchell made very well in her opening remarks, the bill has many strengths. Stakeholders seem to be satisfied that it will have the desired effect of making Scotland a hostile

environment for human traffickers and those who exploit vulnerable people for financial gain. However, the fact that legislation is about to be added to the statute book does not mean that we should lose sight of the broader issue, which is that traffickers and slave masters will continue to coerce, deceive and force individuals into lives of degradation, at source.

The harrowing pictures that have been splashed across the front pages of national newspapers and on our television screens in recent weeks serve as a stark reminder that there are hundreds of thousands of vulnerable people who would stop at nothing in the hope of creating a safer, more secure life for themselves and their families.

Human trafficking is a complex, multifaceted and evolving issue and our response must adapt to keep pace with it. I therefore urge the Scottish Government to carefully and consistently review the legislation. Similarly, I encourage the Scottish Parliament to conduct rigorous post-legislative scrutiny of the legislation over the coming years to ensure that it remains fit for purpose and is futureproofed, for there is no doubt that perpetrators will do everything in their power to exploit and manipulate vulnerable people to their advantage, regardless of any deterrents that are put in place. We must keep well awake for that.

16:45

**Elaine Murray (Dumfriesshire) (Lab):** I am delighted to be closing the debate for Scottish Labour as parliamentary consideration of this very important bill comes to its end. I, too, pay tribute to Jenny Marra, whose proposals to legislate prompted 45,000 responses on the issue from across the world and were described by Baroness Helena Kennedy, who is the author of the report to which Jenny Marra referred earlier, as being “world leading”. I congratulate the cross-party group on human trafficking on its role in bringing forward the legislation and, of course, the Scottish Government on taking on Jenny Marra’s work and developing this bill, which was based on her bill proposal. Jenny Marra continued her interest in the bill by proposing amendments to improve it at stages 2 and 3.

There can be no more appropriate time than this to pass legislation combating the heinous crime of human trafficking, when every day our television screens and media outlets offer graphic portrayals of refugees fleeing persecution in their own lands and the misery of camps in neighbouring lands. The term “trafficking”, for the illegal and often extremely unsafe transportation of refugees, is not always correct, as Rhoda Grant pointed out, because some of those people are being smuggled rather than trafficked, and when—or if—they arrive at their destination, they are dumped

there and left to fend for themselves, so this bill will not help them. However, those who are being trafficked and who are sold into modern-day slavery in other countries will be helped by the bill.

There have been a number of welcome improvements to the bill since stage 1, as Alison McInnes and Malcolm Chisholm said, in response to evidence by witnesses to the Justice Committee. There is now an expanded definition of the term “trafficking” to ensure that people who are not involved in the actual provision and arranging of travel but are involved in other ways in trafficking will also be caught by the bill’s provisions.

References to “youth” and “young” have been removed and the bill makes it clear that a child is defined as being a person under 18 years of age. Specific reference has been made to child victims of trafficking, and an aggravation of the offence of human trafficking involving a child has been included.

The Lord Advocate will now issue instructions rather than guidance regarding non-prosecution of victims of trafficking who have been compelled by their captors to perform illegal activities.

Crucially, independent child-trafficking guardians have been given a statutory basis. A presumption of age section was agreed at stage 2 that requires local authorities and health boards, when there are reasonable grounds to believe that a person is under the age of 18, to consider them to be a child even if there is no direct proof of age.

The stage 2 amendments that put independent guardians for child victims on a statutory footing were particularly welcome. Child victims of traffickers need someone who is independent of the statutory agencies and who is trained to understand the traumatic experiences that the child has gone through and can help them through the many and unfamiliar processes that will face them. The original proposal was to rely on a named person, who might have had little knowledge of the issues that are faced by trafficked children, but that would have been inadequate, and I am pleased that that was acknowledged.

Stage 3 amendments enabling independent child guardians to get access to the information that they need were further improvements. I am pleased that amendment 7 was agreed to at stage 3, because it extends to unaccompanied children who might be particularly vulnerable to trafficking entitlement to independent child guardians.

Research was drawn to my attention by my daughter, who is doing work on a mental health nursing qualification. It is very recent research on the mental health needs of unaccompanied asylum-seeking children and it illustrates how



especially vulnerable those children are to mental health problems and how difficult it is for such young people to access assistance or even to recognise the problems that they have. An independent guardian will therefore be particularly important for such children who have travelled into this country. They might not have been trafficked, but because of their situation they will be particularly vulnerable to being preyed on by traffickers when they get here.

Jenny Marra's amendment 17 recognised that some children are trafficked by their family members and they also have a need for independent statutory legal guardianship. The amendment was not agreed to so I hope that the legislation will protect children who have been trafficked by their own families and other people who are close to them.

At stage 2, Rhoda Grant lodged amendments that would have criminalised the purchase of sex and decriminalised its sale. Although some members, myself included, agreed that that would reduce the demand for the trafficking of sex workers, the committee was concerned about the introduction of a significant new policy at stage 2. Rhoda Grant therefore did not press her amendments, but lodged a different amendment at stage 3 that would have required the Government to undertake research into the impact of criminalisation of the purchase of sex on policy areas such as violence against women and the commercial exploitation of sex, and to report to Parliament on that. Despite the amendment's rejection, we look forward to the publication of the Scottish Government's research and the subsequent discussion of its findings and conclusions. The issue will not go away.

The bill is extremely important; it is a trailblazing bill. As Jenny Marra, Christina McKelvie, Malcolm Chisholm and others have said, it is just the start of a journey. It is the beginning of the end of human trafficking in Scotland.

16:51

**Michael Matheson:** I have welcomed the contributions to the debate from across the chamber. I recognise the strong cross-party support for the bill. We need to make sure that effective measures are in place to tackle the abhorrent crime of human trafficking and exploitation.

I recognise that significant work has been done over a number of years—by Jenny Marra, by the cross-party group and by a number of other organisations—to highlight human trafficking. There is no doubt that that collective effort has led to a greater understanding of the issue and

determination to address it as effectively as possible.

From the comments that have been made during the debate, it is clear that there is a considerable level of interest in the development and shaping of the strategy that the bill, if passed by Parliament tonight, will place a statutory obligation on ministers to prepare. I assure all members that we will have a thorough and detailed engagement process with interested stakeholders about the development and implementation of the strategy to ensure that it is effective, hits all the right points and makes sure that we are doing everything possible to tackle human trafficking and exploitation.

Jenny Marra referred to the timing of that engagement. The Government has already started some of the initial work in developing the strategy, but the bill provides assurances about the timing because the strategy must be delivered within one year of section 1 coming into force. We have a statutory obligation to deliver it within that timeframe, which is why some of the initial work has already started.

**Jenny Marra:** I was clear on the timing and on the obligations that the bill sets on that. I was looking for further clarification on lead accountability and to find out whether a group of stakeholders will lead the process.

**Michael Matheson:** There is no doubt that stakeholders will have a key role to play not just in shaping the strategy but in looking at its implementation once it has been introduced. I want stakeholders to have a meaningful role in making sure that the strategy is implemented effectively. I am open to that being in the form of a reference group, or otherwise, but I do not want stakeholders to be involved only in the shaping of the strategy; I want them to be closely involved with how it is implemented in the period leading up to the three-year review that is part of the process.

Jenny Marra raised another important point about the provision of training that will be delivered as part of the strategy. Clearly, training will be an important part of the strategy. There have been initial discussions with the national health service and Police Scotland, and other sectors can play their part, too. We must give careful consideration to the quality and quantity of training. As we develop and implement provisions on training, we must not lose sight of quality in our attempts to reach greater numbers—we must get the balance right. That will be a key part of the work that we do as part of the strategy.

**Jenny Marra:** I thank the cabinet secretary for giving way again. Did he note my suggestion about training for lawyers? The Faculty of Advocates will hold an event on 10 October, but it

might also be an idea to speak to the university law schools about training on statutory criminal law, as well as common law.

**Michael Matheson:** I think that the bill that we are about to pass will present an opportunity to raise awareness among people who are undertaking law degrees, but I am more than open to considering which groups we should target as part of a training regime.

Margaret Mitchell raised the statutory defence issue. The approach that the Government has taken in that regard is different from the one that she wanted us to take, but I say in the strongest possible terms that it is wrong to suggest that the bill will provide less protection than the Modern Slavery Act 2015 provides. We have taken a different approach. We do not think that a statutory defence is appropriate in Scotland, and we think that the Lord Advocate issuing instructions is a better and much more effective approach, which is less likely to lead to injustice in Scotland, as the Lord Advocate said himself.

It is fundamentally wrong to suggest that the bill provides less protection. That is certainly not the case.

**Margaret Mitchell** *rose—*

**Michael Matheson:** I ask the member to let me finish this point.

Some people are asking significant questions about the workability of the statutory defence provision in the Modern Slavery Act 2015, because of the 130 exceptions and carve-outs that are being created. Our legislation will not have that complexity, which is why the Lord Advocate takes the view that our pragmatic and victim-centred approach will reduce the risk of injustice in Scotland.

**Margaret Mitchell:** The point is that we could have had both approaches, which would probably have made the bill better than other legislation in the UK. Is the bottom line not that it would have cost more to have provided for a statutory defence? Was that not the real reason why a statutory defence was not included along with the Lord Advocate's guidance and instructions?

**Michael Matheson:** That is one of the most bizarre arguments I have heard about our approach to a statutory defence. It had nothing to do with cost; it was about taking the right approach and striking the right balance. I regret the tone that the member has taken in suggesting that the bill does not provide the right level of protection, when it does quite the opposite and the Parliament should be proud of how we have achieved that.

Margaret Mitchell also asked about the national referral mechanism. We are continuing to discuss the NRM with the Home Office in the context of

the pilots in West Yorkshire and Cornwall, and we will continue to engage with the Home Office.

A number of members said that today is the start of the process of tackling human trafficking. I do not entirely agree, because a significant amount of work has already been undertaken by our law enforcement agencies and prosecution services—Jamie McGrigor talked about that—as well as by third sector organisations. However, this is the day on which we up the stakes and ensure that Scotland is a hostile environment for people who want to peddle the misery that is associated with human trafficking and exploitation. In supporting the bill, our message to those people is clear: they are not welcome here. Our message to victims of the appalling crime of trafficking is that Scotland is a haven and a sanctuary, where we will support them to overcome the abuse that they have experienced.

## Decision Time

17:00

**The Presiding Officer (Tricia Marwick):** There is one question to be put as a result of today's business. The question is, that motion S4M-14421, in the name of Michael Matheson, on the Human Trafficking and Exploitation (Scotland) Bill, be agreed to.

*Motion agreed to,*

That the Parliament agrees that the Human Trafficking and Exploitation (Scotland) Bill be passed.

*Meeting closed at 17:00.*



This is the final edition of the *Official Report* for this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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