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Pàrlamaid na h-Alba

Official Report

MEETING OF THE PARLIAMENT

Thursday 14 January 2016

Session 4

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Scottish Parliament

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

General Question Time

Mainstream Education

1. Mark McDonald (Aberdeen Donside) (SNP): To ask the Scottish Government what its position is on the presumption of mainstream education. (S4O-05254)

The Minister for Learning, Science and Scotland's Languages (Dr Alasdair Allan): The Scottish Government's position on the presumption of mainstream education is clearly set out in legislation. The Standards in Scotland's Schools etc Act 2000 places a duty on education authorities to provide education in a mainstream school unless specific exceptions apply. In summary, those exceptions are where education provided in a mainstream school is not suitable for the aptitude and abilities of the child in question; where placing the child in a mainstream school may be seriously disruptive to other pupils at the school; and where placing the child in a mainstream school would incur unreasonable levels of public expenditure. The legislation indicates that it is presumed that those circumstances will arise only exceptionally.

Mark McDonald: I have received concerns from across Scotland about great inconsistencies in how the presumption of mainstream education is being applied. Can the minister confirm that the Government intends to review the presumption and indicate what he hopes a review might achieve?

Dr Allan: I can certainly confirm to the member that a review of the guidance on the duty to provide mainstream education will take place. The review will aim to refresh the current guidance in light of legislative and policy developments, and it will be undertaken in partnership with stakeholders. The draft guidance that will be developed subsequently will be subject to public consultation to ensure that the contributions of a wide range of interested individuals and organisations can be made and heard. Given the member's long-standing interest in and knowledge of the subject, I would certainly welcome hearing his views about the refresh of the guidance as it develops.

Paris Agreement (Fossil-fuel Production and Consumption)

2. Patrick Harvie (Glasgow) (Green): To ask the Scottish Government what the implications for Scotland are of the Paris agreement for fossil-fuel production and consumption. (S4O-05255)

The Minister for Environment, Climate Change and Land Reform (Aileen McLeod): The First Minister and I were privileged to represent Scotland at the United Nations climate conference last month. Thanks to the efforts of everyone in Scotland, we reported a 38.4 per cent cut in emissions since 1990, which is much more than the 31.7 per cent originally envisaged. We now generate half our electricity demand from renewables and have delivered our 500MW target for community renewables five years early. In addition, our 12 per cent target for energy efficiency improvement was already at the required level in 2013. The First Minister pledged a further doubling of our climate justice support for some of the world's poorest people.

As we hoped, the Paris agreement provides certainty about the global low-carbon future in the same way that we set certainty for Scotland's low-carbon future in legislation in 2009. The agreement sets a clear international context for our climate change proposals and policies covering the period to 2032 and, in addition to Scotland's economic and industrial objectives, it will set the context for our new energy strategy.

Patrick Harvie: I am grateful for that answer, although it did not mention fossil fuels, which were the subject of the question. The fifth assessment report from the Intergovernmental Panel on Climate Change was the first to include a carbon budget—an expectation of the amount of fossil fuel that the world can use if we want to have a reasonable chance of achieving the goal of restraining climate change to 2°C above the pre-industrial temperature level. Given that the Paris agreement sets a more ambitious goal of well below 2°C and aims at 1.5°C, will we not inevitably have to acknowledge that the world has dramatically more existing reserves of fossil fuels than we can afford to use and that countries such as Scotland or the United Kingdom are going to have to abandon the strategic objective of maximum extraction?

Aileen McLeod: We very much welcome the Paris agreement, which pledges the best global efforts to limit temperature rise to 1.5°C. That is a tremendous victory for our poor and vulnerable, and for climate justice. Advice on the next set of greenhouse gas targets is expected from the Committee on Climate Change in March 2016, and it will be based on the latest evidence, including international policy. The Scottish Government has been clear that Scotland needs a

diverse and balanced energy portfolio to provide us with secure and affordable electricity and heat for the decades to come. Our ambitious renewables targets, our climate change targets and our policies on electricity generation, renewable heat and energy efficiency are progressively reducing our use of fossil fuels. As I said, Scotland already generates half our electricity demand from renewables.

Dave Thompson (Skye, Lochaber and Badenoch) (SNP): I have to declare an interest because I have just leased an all-electric Nissan Leaf.

Does the minister agree that the number of rapid 50kW electric car charging points in the Highlands and Islands should be increased to make ownership of electric vehicles in the Highlands and Islands more attractive?

Aileen McLeod: Yes, that is why we are working closely with our local authorities and other partners to deliver rapid charge points across the Highlands and Islands. There are already 43 available for public use, with a further 10 to be commissioned in the coming months.

Scotland now has one of the most comprehensive networks of rapid charge points in Europe, supporting the continued growth of the electric vehicle market.

Marine Protected Areas (Socioeconomic Impacts)

3. Rhoda Grant (Highlands and Islands) (Lab): To ask the Scottish Government what socioeconomic impact assessments it has carried out of the new marine protected areas and how many jobs will be lost on shore and at sea in these locations as a result of their designation. (S40-05256)

The Cabinet Secretary for Rural Affairs, Food and Environment (Richard Lochhead): Protecting the habitats and species that exist in our seas is vital if we want to see sustainable futures for the industries that operate in them and realise the wider societal benefits that our ecosystems deliver, for example through carbon capture and storage, coastal defence and, of course, the conservation of fish stocks. The Scottish Government has undertaken detailed impact assessments covering our network of marine protected areas and they show that the long-term benefit for Scotland is very positive.

Rhoda Grant: Will the cabinet secretary listen to the concerns of fishing communities? They have protected the marine environment for generations—had they not, nothing would be left to designate—and they are concerned that designation will pose the biggest threat to the fishing industry and fragile communities for

decades. Will he ensure appropriate compensation for workers who are affected by job losses at sea and on shore? Will he set up a partnership action for continuing employment team in each affected area to help the workforce that will be displaced?

Richard Lochhead: Rhoda Grant speaks of the fishing industry. I point out to her that there are many sectors in the fishing industry, of which some believe that we are not going far enough with our proposals and some believe that we are going too far.

I have listened very closely to the concerns that have been expressed, which is why we have had substantial consultation over many months on the proposals, as have the Parliament's committees. I announced a three-point plan covering environmental monitoring, including £500,000 of support for vessels to participate in that monitoring over three years. We are also monitoring the economic impact and taking other mitigation measures.

Liam McArthur (Orkney Islands) (LD): The minister will be aware that the proposed marine special protection areas are even more challenging because restrictions on activity are imposed as soon as draft areas are selected for consultation. In Orkney, the areas that have been selected are disproportionately large, offer little scope for mitigation through the relocation of activity and risk sterilising huge areas that are of strategic economic importance to the local community and the country.

Will the cabinet secretary commit to amending the proposals for Orkney waters to address concerns that have been raised by the local council, Orkney Fisheries Association and others?

Richard Lochhead: Although I do not agree with all the language that Liam McArthur used in his question, I recognise that there are concerns about the forthcoming consultations on the SPAs. However, we have European obligations to fulfil and I believe that the people of Scotland want to protect our waters and marine environment. We therefore have to strike a balance between protecting the social and economic interests of our island communities and fulfilling our obligations to protect the marine environment. I will listen closely to representations from Orkney and our other island communities.

Kenneth Gibson (Cunninghame North) (SNP): Does the cabinet secretary share my disappointment with the Labour Party because it appears not to be interested in protecting the marine environment? Does he agree that, far from costing jobs, marine protected areas will boost jobs by helping to ensure sustainable fisheries and

will deliver additional jobs in tourism, angling, marine research and so on?

Richard Lochhead: As is the case with many issues, we have had different messages from different members of the Labour Party. I commend the Labour spokespeople for being supportive of the Government's direction of travel in marine protection, but other members have perhaps taken a slightly different view.

What is really important is that there is public support for what we are doing to protect the marine environment in Kenneth Gibson's constituency and elsewhere in Scotland.

John Scott (Ayr) (Con): The cabinet secretary will be aware of the concerns of the Clyde Fishermen's Association about the South Arran Marine Conservation Order 2015 (SSI 2015/437) on the recovery of maerl beds. The order prohibits fishing with gear and certain other types of fishing. Does he agree with the Clyde Fishermen's Association that that level of protection is unnecessary and unwelcome, that the consultation period was inadequate and too short, and that Clyde fishermen's incomes and livelihoods will be put at risk as a result of the order?

Richard Lochhead: I assure John Scott and others that we undertook 20 weeks of consultation on the management measures and, as I said, parliamentary committees also undertook around eight weeks of consultation on them. I point out that many parts of the fishing industry support what we are doing and wish that we were going further. We have also had a lot of support from local communities, whose voices we must listen to when we consider the future of Scotland's marine environment.

Public Services (Universalism)

4. Bill Kidd (Glasgow Anniesland) (SNP): To ask the Scottish Government what its position is on calls to revisit its position on the principle of universalism in public service provision. (S4O-05257)

The Cabinet Secretary for Social Justice, Communities and Pensioners' Rights (Alex Neil): We believe in a fair and equal Scotland and our commitment to universal public services, which we reaffirmed in the recent draft budget, is vital to create the right social and economic conditions for everyone to flourish.

Bill Kidd: Can I take it from his response that, like me, the cabinet secretary is proud to be part of a Government that opposes unnecessary means testing for the provision of public benefits and does not want to return to the previous situation, as promoted by the better together parties?

Alex Neil: Absolutely. Universal services in Scotland are wide ranging and consequently apply to different groups on a range of bases. It would be extremely difficult to apply any form of means testing for existing universal services on an equitable basis. Such universal benefits have the advantage of being transparent, equitable and non-stigmatising. Take-up is often a matter of individual choice, rather than relating to demonstration of experience of need, and that reduces unnecessary and expensive bureaucracy.

Unlike Johann Lamont, who at the weekend questioned whether people need free higher education, free bus passes, free school meals and free prescriptions, we believe that people do need those things. We all contribute to society, and we all benefit. These are the choices on investment in our society that we make to reduce poverty, and they support the Government's commitment to a fairer, healthier and more prosperous country.

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): Does the cabinet secretary not think that it is time to embrace progressive universalism, rather than crude universalism? For example, within the universal provision of healthcare, more resources should be targeted to general practitioners in deprived areas, and within the universal service of education, more resources should be targeted at schools and nurseries where there are significant numbers pupils from disadvantaged backgrounds, as proposed by Kezia Dugdale.

Alex Neil: We already have progressive universalism. For example, in the health service—*[Interruption.]*

The Presiding Officer (Tricia Marwick): Order.

Alex Neil: —we have more than 100 deep-end practices, in and around Glasgow in particular. They get additional resources for link workers and the like. My point about Johann Lamont's contribution was that it was neither universal nor progressive.

National Union of Rail, Maritime and Transport Workers (Meeting)

5. Neil Bibby (West Scotland) (Lab): To ask the Scottish Government whether it will provide an update on the outcome of its recent meeting with the RMT union. (S4O-05258)

The Minister for Transport and Islands (Derek Mackay): I met RMT on Thursday 7 January and again this morning as part of a Scottish Trades Union Congress delegation, and I look forward to continued dialogue.

Neil Bibby: The minister is aware that RMT members who work on the Caledonian sleeper service are in dispute with the new operator,

Serco, and that the RMT has identified more than 200 faults with the rolling stock that Serco is operating. The RMT has also repeatedly expressed concern about the inclusion of an indemnity clause in franchising agreements, which it believes undermines industrial relations. Following his comments last night in the members' business debate on this important issue, will the minister say what action the Scottish Government can take to address those concerns before the arrival of new rolling stock in 2018?

Derek Mackay: We are all looking forward to the new rolling stock. There is a programme of maintenance and improvement, which has been subject to some interrogation, and I am satisfied with that. On compensation and indemnification, there has been no approach to the Scottish Government for such a payment. However, I am sure that all members will welcome the progress that RMT and Serco have made through the Advisory, Conciliation and Arbitration Service on the current concerns and issues for dialogue.

Legal Aid Fund

6. Siobhan McMahon (Central Scotland) (Lab): To ask the Scottish Government for what reason total expenditure on the legal aid fund in 2014-15 fell by 8 per cent compared with the previous year. (S4O-05259)

The Minister for Community Safety and Legal Affairs (Paul Wheelhouse): Comparison between years is not straightforward, as a range of factors influences the demand for and level of legal aid. Anyone eligible who requires legal aid will receive it, as it is a demand-led system—we do not ration access to legal aid on the basis of available budget. Indeed, in every year since 2012-13, actual spend on the legal aid fund has exceeded the budget that was set for that year.

A slowdown in court business has resulted in a decrease in criminal expenditure. That is part of a longer-term trend in which criminal proceedings have reduced in number from 179,500 in 1994 to 122,000 in 2013-14.

We plan to work with the Law Society of Scotland and the Scottish Legal Aid Board to review legal aid provision, to understand the factors that influence the need for legal aid and to discuss how best to achieve a simpler and more efficient legal aid system that better manages expenditure while protecting access to justice—something that has not been protected in England and Wales.

In addition, through the justice board, we are taking the necessary steps to speed up access to justice within sheriff courts, and the Scottish Courts and Tribunals Service has confirmed that

trial diets are now being made available across courts in line with optimum timescales.

Siobhan McMahon: The minister will be aware of the concerns that have been raised by the members of the Falkirk and District Faculty of Solicitors. Under the new sheriff appeal court arrangement, those judges who preside at hearings, the other court officials, police officers and lawyers for the prosecution will receive 2015 rates of pay, while those in court who are standing up for the appellant will receive only 1992 rates of pay. Does he agree that that situation is unacceptable? In his response to me dated 4 November 2015, he stated that he is

“committed to reviewing legal aid arrangements to find a sustainable and appropriate fee structure”.

When does he expect that review to take place?

Paul Wheelhouse: On the latter point, I have just outlined in my original answer the work that we are doing with the Law Society and the Scottish Legal Aid Board. Indeed, I had an internal meeting in the Scottish Government today to discuss how we take that work forward.

On the first point on fee rates, it is worth pointing out to the chamber that there have been significant changes to legal aid fees for summary criminal work in the past decade. For example, in 2008 the payment for guilty pleas under assistance by way of representation funding was increased from £70 in the sheriff court; it is currently £485. Statutory provisions on rates across legal aid have been subject to multiple revisions over the years. For example, the broad structure of the current fixed-payment regime for summary criminal work was put in place in 1999—not 1992—and has been subsequently been amended.

Focusing solely on the perceived profitability of individual elements gives an incomplete picture, because total payment for legal aid work is considered in the round. However, I recognise that there are concerns in the sector. I am happy to continue to listen to the member and others who bring forward such points. I am happy to engage with Siobhan McMahon as the review is undertaken.

Barnett Consequentials (Mental Health Spending)

7. Jim Hume (South Scotland) (LD): To ask the Scottish Government what Barnett consequentials will arise from the £600 million increase in mental health spending announced in the recent spending review, and how the Cabinet Secretary for Finance, Constitution and Economy plans to allocate this. (S4O-05260)

The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney): At a spending review, Barnett consequentials are determined on a departmental level as opposed to a programme level. It is therefore not possible to isolate the financial impact of individual spending decisions, although any consequentials from expenditure on mental health in England will be reflected in the Scottish Government's total budget announced in the spending review.

Last year we announced investment of £100 million to improve mental health services over the next five years. The draft budget 2016-17 provides an additional £50 million, which results in a total package of £150 million. On Tuesday the First Minister announced that £54.1 million—over one third of that package—will be invested over the next four years to provide support to boards to meet waiting times targets by investing in workforce development, recruitment and retention, and service improvement support.

Jim Hume: I thank the cabinet secretary for his response, but we must insist that we take the spending in context. The percentage of national health service expenditure in Scotland that relates to mental health has been falling since 2009. Child and adolescent mental health services receive about 0.45 per cent of the total NHS budget in Scotland, compared with 0.7 per cent in England. Therefore, will the cabinet secretary recognise that children and adolescent mental health services are underfunded and underresourced? Does he accept that the additional £10 million a year for mental health that he has announced is not going to deliver the step change that we desperately need?

John Swinney: The Government and I acknowledge the importance of ensuring that we have in place effective mental health services in the country. We particularly acknowledge that child and adolescent mental health services must meet the needs of individuals in our society. It is for those reasons that the Government has increased the resources that are available to mental health services, to ensure that we can fulfil the expectations that members of the public rightly have. There is provision for that improvement in the budget that I put to the Parliament in December.

First Minister's Question Time

12:00

Engagements

1. Kezia Dugdale (Lothian) (Lab): To ask the First Minister what engagements she has planned for the rest of the day. (S4F-03161)

The First Minister (Nicola Sturgeon): I have engagements to take forward the Government's programme for Scotland.

Kezia Dugdale: At the age of just 29, Gordon Aikman was diagnosed with motor neurone disease. After years as a healthy and athletic young man, he is now in a wheelchair and relies on visits from care workers three times a day. He is dying.

I was in the room with the First Minister when she met Gordon and promised to look at the lack of MND nurses in Scotland, and I listened closely last January when she announced plans to double the number of specialist MND nurses in Scotland. We now know that that pledge has not been met—Nicola Sturgeon has not kept the promise that she made directly to Gordon Aikman.

As Nicola Sturgeon herself said:

"For people living with MND this is urgent, time is not on their side".

Will the First Minister give a precise date for when she will deliver on her promise to double the number of specialist MND nurses who are working in our national health service?

The First Minister: I say to Kezia Dugdale, first that my admiration for Gordon Aikman, for the way in which he has confronted the dreadful diagnosis with which he was faced and for the way in which he has conducted his campaign, knows no bounds. As I have been over past months, I continue to be determined to work with him and others to ensure that we fulfil our obligation to improve healthcare and social care for people with MND and other devastating illnesses of that type.

My second point is that I genuinely do not think that it is fair of Kezia Dugdale to say that we are not fulfilling the commitment that we gave to Gordon Aikman. The funding is being provided and health boards are in the process of recruiting additional nurse specialists. The delays are to do with difficulties in recruitment and getting the right people with the right skills into post, but the process is continuing, progress is being made and over the next few weeks I expect health boards to do what they require to do to fulfil the commitment to double the number of MND nurses.

Of course, the commitment was to double the number of MND nurses and to ensure that MND nurses are funded by the national health service. Those are commitments to which I remain absolutely committed.

Kezia Dugdale: I am sorry, but the First Minister promised that that would be in place by the end of October, and it is now January.

I hear the First Minister talk about Gordon Aikman's courage. All the party leaders in Parliament have had their photo opportunity with Gordon and have praised him for his bravery. However, he does not want our admiration and he did not let the cameras into his life for the sake of celebrity. He did it to leave this world a legacy for those who come after him.

There are thousands of people across the country who are coming to the end of their lives and who need support. Just yesterday, new figures were published that confirm that at least 276 people died while waiting for a social care package. It is a scandal that it took a dying man to make a freedom of information request to expose the scale of the social care crisis in this country. Can the First Minister tell me how her £500 million of cuts to council budgets will help to solve the social care crisis?

The First Minister: Let me take the two issues in turn.

First, on MND nurse specialists, to date this Government has invested £2.4 million of recurring funding in a new specialist nursing and care fund. That includes up to £700,000 to fulfil the commitment that from 1 April 2015 all MND clinical nurse specialists will be paid for from public funds. That is now in place and is fulfilling the first part of the commitment that I made to Gordon Aikman.

As I said in my earlier answer, we remain committed to ensuring that the number of MND specialist nurses is doubled and that that happens as swiftly as possible. We are seeing progress. I outlined the fact that this is not about funding but about making sure that health boards recruit the right people with the right skills into the posts. We have already seen progress towards meeting the goal in the five NHS boards that employ MND nurses. NHS Lothian and NHS Tayside have already increased capacity, and NHS Greater Glasgow and Clyde has appointed two new MND specialist nurses who will take up their posts later this month. All other NHS boards that employ MND clinical nurse specialists are in the process of recruiting additional nurses. That is the commitment that was made: it will be delivered in full.

On social care, what Kezia Dugdale did not refer to in her question—perhaps unsurprisingly—is the fact that, in the draft budget that the Deputy First

Minister outlined to Parliament just before Christmas, we made a commitment to build on our work to integrate health and social care. That is the biggest reform of how we deliver healthcare that the country has seen since the establishment of the NHS. We committed to building on that by putting an additional £250 million from the NHS into social care next year, in addition to the extra money that we had made available to support integration of health and social care.

Kezia Dugdale talked about the number of hours of social care that are delivered. As the population ages and the needs of older people become more intensive and more acute, we must expand social care. That is the reason for the budget decision that was taken. Kezia Dugdale might be interested to know—if she does not know it already—that we have, over the past few years, been seeing an increase in the number of hours of social care that councils provide. In 2015, 706,000 hours a week of social care were provided by councils, which was up 4 per cent on the figure for the previous year, and up from 607,000 hours at the start of the current session of Parliament. We are also seeing the average number of hours of home care that are received each week steadily increasing. In 2000, the figure was 5.6 hours and last year the figure was 11.5 hours. That means that the intensity of social care is increasing, which is enabling more people with intensive needs to stay at home.

This Government has taken, and will continue to take, action to ensure that we have good-quality social care that protects individuals, and to ensure that we are protecting our national health service.

Kezia Dugdale: In that long answer, there was one simple fact: the First Minister has put £250 million into the budget but has taken £500 million out. That is the classic sleight of hand that is the SNP Government's style.

In the past 24 hours, we have seen a massive debate open up about the future of our council services. From Moray to Dundee, councils are taking tough choices because the Scottish Government has left them with no alternative, and one of the most important services that our councils provide is social care. Last night, on "Reporting Scotland", the Cabinet Secretary for Health and Wellbeing gave the game away when she admitted that there is a social care recruitment problem. I see her nodding her head in agreement—she is absolutely right. We know that, each year, one in five care workers leaves their job because of low pay, poor conditions and insecure work. Payment of a living wage would fix that, and it would improve the care that people receive.

Before Christmas, the SNP Government voted against Labour's plans for a living wage for care

workers. The first minister could reverse that decision today. She could make a pledge to the 39,000 care workers who would be guaranteed a living wage for the first time, she could make a pledge to the thousands of people who are waiting for a social care package, and she could make a pledge to the families of the 276 people who died last year while they were waiting for the support that they needed. Will the First Minister today guarantee that she will introduce a living wage for care workers?

The First Minister: On the living wage, a fact of which Kezia Dugdale is either not aware, or is aware of but chooses to ignore in her questioning, is that this year this Government is investing £12.5 million in partnership with local councils as part of a £25 million package to improve wages and conditions in the social care sector. We are determined to continue to make progress towards payment of the living wage in the social care sector. If Kezia Dugdale wants us to go faster, she is quite entitled to bring forward costed proposals as to how we could do that in the context of next year's budget, and to say clearly from where the money would come.

I return to the overall question of local government funding. The reduction in local government budgets that is proposed for the next financial year amounts to 2 per cent of its total revenue expenditure: 2 per cent. That is before we take account of the additional £250 million in social care, which is of course on top of the £500 million that we are already investing over three years to support integration of health and social care.

The council tax freeze is fully funded: the Scottish Government gives councils money to compensate for not increasing their council tax rates. Indeed, a recent Scottish Parliament information centre report said that the council tax freeze is possibly overfunded, with an estimated [Interruption.]—

The Presiding Officer (Tricia Marwick): Order.

The First Minister: This is from a SPICe report. Labour members are very keen to quote SPICe reports when it suits them, so they might want to listen to what this one says. It says that £164.9 million extra is going to local government. Those are the facts.

These are challenging times for everyone because of the cuts that are being imposed on the Scottish Government's budget. There is a question that Labour has to address. We are in a budget process right now, so if Labour wants local government to get more money in next year's budget—that is what we are talking about—it has to set out where that money will come from. Is Labour going to break its own commitment to

freeze the council tax or is it going to take money from other parts of the budget? Which is it and when on earth is Labour going to tell us?

The Presiding Officer: I ask Ms Dugdale to make her next question brief, and the First Minister to make her answer brief, too.

Kezia Dugdale: Let me give the First Minister some facts. We brought forward proposals for a living wage for care workers, but the SNP voted them down. I hear the First Minister make commitments on lots of things. She can promise a £250 million tax break to big airline companies, but she cannot promise care workers a living wage. [Interruption.]

The Presiding Officer: Order. Wheesht!

Kezia Dugdale: That says a lot about the priorities of this SNP Government.

The problem of council cuts is not going away and the social care crisis is not going away. Despite all the waffle from the First Minister, people are dying while waiting for support. Is that really the Scotland that the First Minister wants to live in?

The First Minister: There we have it: the last vestiges of credibility that Kezia Dugdale and the Scottish Labour Party had have just disappeared. We are back to the mythical air passenger duty money; today we hear about the fourth thing that is going to be spent on. First it was education, then it was restoring tax credit cuts, then last week in this very chamber we heard that it was for first-time buyers grants, and today it is for the living wage in the social care sector. It is absolutely dire: that lot over on the Labour seats are clearly not fit to be an Opposition, let alone an alternative Government.

This is where it gets real for the Opposition—a matter of weeks away from an election. I know that Labour does not think that it has any chance of winning the election and that it is still trying to scramble into second place over the Tories, but it has a duty to put forward detail. I have outlined our plans on social care and I have outlined how we will work towards the living wage in social care. If Labour wants us to do it faster, it has to tell us how. I challenge Kezia Dugdale in the context of this budget process over the next couple of weeks to bring forward costed proposals for how all her plans are to be funded. If she does not do that, she does not deserve to be taken seriously by anybody.

Secretary of State for Scotland (Meetings)

2. Ruth Davidson (Glasgow) (Con): To ask the First Minister when she will next meet the Secretary of State for Scotland. (S4F-03160)

The First Minister (Nicola Sturgeon): I have no plans at present, but in light of his announcement yesterday, I wish him all the best.

Ruth Davidson: This morning, we learned that teachers unions are again threatening strike action over the workload that they face. That is on the back of a crisis in teacher recruitment in Scotland, with training places going unfilled—particularly in maths, physics, computing and technology—and evidence that the attainment gap in our schools is still growing.

We need to act. Last week, we in the Conservative Party published our plans to support Scottish schools. In that document, we called for the Scottish Government to introduce the teach first programme, which is an innovative scheme that is now Britain's largest graduate recruiter. It trains many of the best graduates and places them in some of our most challenging schools. However, they currently only go to schools south of the border. With teachers threatening to strike, a shortage of graduates going into teaching and poor areas falling behind, why does the First Minister not back that scheme for Scotland?

The First Minister: First, I disagree with many aspects of Ruth Davidson's characterisation of our education system, but I will not go into that in the interest of time.

As I believe Ruth Davidson is, I am serious about raising the standards of education in Scotland and closing the attainment gap. We see some signs of the gap narrowing in the upper stages of secondary school, but I want to have the data and information to ensure that we can set measurable targets for closing it in primary and lower secondary school as well. In that context, when I launched the national improvement framework last Wednesday, I said that I close my mind to nothing that can be proven to work in raising standards. That remains my position.

As members are aware, round about this time last year—if memory serves me correctly—I visited a school in London to look in detail at the experience of the London challenge. Before I say this, I accept that there will be different views from the one that I am about to express, but somebody who was close to the implementation of the London challenge said to me that the one thing that they would advise me to be cautious about in learning from it was teach first. In their experience, it was not the thing that had made the biggest difference. That does not mean that I am closing my mind to anything, but it means that we will continue to look at the best evidence of what works. That is the spirit in which I will continue to move forward with the task of improving education for all young people in Scotland.

Ruth Davidson: As ever on the topic of education, we seem to have an awful lot of warm words and open minds but not much actual leadership. The consequences of the Government's inaction are beginning to damage our chances of improving our schools to the best of our ability. We have looked at the numbers this week. They show that, last year alone, 100 Scottish graduates joined the teach first programme. That is 100 trainee teachers who studied in Scottish universities and who could, right now, be preparing to work in our schools but who were, instead, recruited by teach first and will now go and do some great work teaching disadvantaged children in England. That just goes to show that, when it comes to our schools, the Scottish National Party Government would rather export good teachers than innovate teacher training.

We are losing some of our best graduates to schools south of the border—graduates who could be teaching in our most disadvantaged schools. The First Minister has the power to change that. Why does she not?

The First Minister: Much of what Ruth Davidson just said is arrant nonsense. We will do whatever we think works to improve Scottish education.

Angela Constance has recently made announcements about the fact that we are increasing the target intakes for student teachers by 60 for primary and 200 for secondary, so we are increasing the number of teachers who are going through training. Part of the focus that we have put on raising attainment is on the quality of the teachers who go into our schools. We are ensuring that we reform how teachers are trained. We recently announced the qualification for headship, which will be mandatory by 2019. We are making sure that the best graduates come through, get the best training and go into our schools to provide the best education.

We will continue to focus on the things that we think work. The national improvement framework will give us the framework to determine whether what we are doing is working or whether we need to do more. In the context of the election campaign that lies ahead, we will set out over the next few weeks further thoughts about how we do that over the lifetime of the next Parliament. I continue to welcome views from all parts of the chamber, but the national improvement framework is evidence that we are getting on with the job.

Cabinet (Meetings)

3. Willie Rennie (Mid Scotland and Fife) (LD): I am sure that all our thoughts are with the injured and the family and friends of those who have lost their lives on the streets of Jakarta today. It is a

reminder that we must all stand together against global terrorism.

To ask the First Minister what issues will be discussed at the next meeting of the Cabinet. (S4F-03159)

The First Minister (Nicola Sturgeon): I echo Willie Rennie's comments. Today, we have seen another terrorist atrocity, and our thoughts are with those who have been affected in Jakarta.

Matters of importance to the people of Scotland will be discussed at the next meeting of the Cabinet.

Willie Rennie: The Conservative Party is proposing an 18 per cent increase in the council tax in Moray. Putting to one side the contradictions in Conservative policy, surely that shows the enormous pressure that councils across Scotland are under. The £500 million cut to council budgets will hit schools. The £500 million cut is a choice of the Scottish National Party Government, so will the First Minister review that decision today?

The First Minister: As I have outlined in previous answers to other leaders, the council tax freeze—as Willie Rennie well knows—is fully funded. Every year that the council tax has been frozen, the Scottish Government has compensated councils for the amount that they would have raised in revenue if they had increased the council tax by the rate of inflation. As I said earlier, a recent report by the Scottish Parliament information centre suggests that the council tax freeze might actually have been overfunded in the past few years.

As a percentage of their total revenue expenditure, the reduction in councils' budgets is 2 per cent. I do not pretend that that is easy for any council to deal with, but we live in challenging financial times. In that context, it is fair to say that local government has been treated reasonably and fairly. Of course, none of what I have said takes account of the additional investment in social care that we have just talked about.

We will put forward our plans for how we take the country forward and how we invest in the things that matter—how we build up social care, protect our national health service and improve education—and it is incumbent on other parties over the next few weeks to do likewise. It is incumbent on them to do so in an honest way, which is not what the Tories are doing at the moment. They are putting out leaflets that oppose tax rises in Scotland on the same day as their councillors in Moray are threatening to hike up council tax by 18 per cent.

Willie Rennie: The First Minister has many choices, and the following is one of them. Even if Moray Council increased the council tax by just

£1, the First Minister would hit it with a £1 million penalty, which would hit schools, nurseries and council services. Will she commit to lifting the threat of that £1 million fine, which would be a double whammy in that Moray Council would be taxed by the Tories and fined by the nationalists? Where is the fairness in that?

The First Minister: Those will be the Tories that Willie Rennie's party propped up in government for the past five years and the Tories who, helped by the Liberal Democrats, have imposed real-terms cuts on the Scottish Parliament's budget. Willie Rennie's hypocrisy on this really does know no bounds.

The council tax freeze is fully funded. What Willie Rennie wants us to do is to provide money to councils that freeze the council tax and also to councils if they do not freeze the council tax. That does not seem fair on the councils that freeze the council tax.

We will put forward our proposals in this budget and for the longer term in the next session of Parliament. I say again that other parties have a duty to do likewise. If they want us to make different decisions in the context of the budget for the next financial year, they should come forward with costed alternatives. If they want more money in next year's budget to go to local government, each of the other parties that are arguing that case must come to John Swinney and the Parliament and point to the line in the budget that they want to take that money from. That is what comes with the responsibility of Government, and it speaks volumes that none of the other parties even begins to understand that.

Renewables (Discussions with United Kingdom Government)

4. Mark McDonald (Aberdeen Donside) (SNP): To ask the First Minister what recent discussions the Scottish Government has had with the UK Government regarding the future of renewables. (S4F-03171)

The First Minister (Nicola Sturgeon): We have had numerous recent discussions with the UK Government on the future of renewable energy. We have set out clearly our views on the impact of recent UK decisions, which are creating huge uncertainty for the renewables sector. As well as hampering our progress towards a low-carbon economy, they are adversely impacting on potential employment in Scotland and creating the likelihood of increased costs for consumers.

Mark McDonald: Given the continued impressive renewable output that is being reported in Scotland, does the First Minister share my concern that the Tories seem more interested in throttling the industry through regressive policy

approaches than in giving it the support that they seem to reserve for the nuclear power industry?

The First Minister: Yes, I share that concern. I have already mentioned our concerns in general. We have particular concerns about the effect on the hydro sector. On onshore wind, the UK Government has badly damaged investor confidence by the premature closure of the renewables obligation, and on offshore wind, there are delays in the allocation round for contracts that are impacting on major developments off our coasts. To add insult to injury, the UK Government has cut the Peterhead carbon capture and storage project.

Scotland's huge energy potential is at risk of being switched off by the Tories. That would be an absolute, total disgrace, and I urge them to think again on all those issues.

Affordable Homes

5. Ken Macintosh (Eastwood) (Lab): To ask the First Minister whether the Scottish Government's target for building affordable homes will resolve the "housing crisis" that she referred to during First Minister's questions on 7 January 2016. (S4F-03168)

The First Minister (Nicola Sturgeon): The Scottish Government is clear in our commitment to deliver at least 50,000 affordable homes over the next five years. That commitment, which has been warmly welcomed by the housing sector, will support around 20,000 jobs a year and generate in excess of £10 billion of economic activity. That will build on our achievements in this session of Parliament in delivering more than 30,000 affordable homes, including 20,000 for social rent.

I thank Ken Macintosh for his recent letter to me in which he announced for the first time—albeit that it looked as if it was done on the back of a fag packet—Labour's policy on housing supply. I look forward to hearing now how that will be paid for and what commitment Labour might have on social housing. Ken Macintosh's leader has said that it is still thinking about that.

Ken Macintosh: The First Minister's boasts about meeting affordable homes targets do not square with her confession last week that she has presided over a "housing crisis". She has turned a housing shortage into a housing crisis. Just one aspect of that crisis is the fact that more than 1 million Scots are living in fuel poverty. They are struggling to afford to heat their homes this winter. Given those circumstances, can the First Minister explain why her Cabinet Secretary for Finance, Constitution and Economy, who is whispering in her ear right now, cut the fuel poverty budget in the budget? Will she pledge to take real action and

join Labour in pledging to introduce a warm homes act for Scotland?

The First Minister: We have maintained the fuel poverty budget at £104 million and lost £15 million from United Kingdom Government funding, because it has ended a project. That is the reality.

Let me remind members across the chamber that that contribution on housing came from a member of a party that built the grand total of six council houses the last time that it was in government. That was the shining record of the previous Labour Administration. [*Interruption.*]

The Presiding Officer: Order.

The First Minister: By contrast, the Government has met our target of 30,000 affordable homes, including 20,000 for social rent. In the next session, if we are re-elected, we will build 50,000 affordable homes, which will be a substantial increase. Seventy per cent of those will be for social rent. That will be a 75 per cent increase in the number of social rented houses that we have built in this session.

We are the party with not just the record, but the ambition for the future on housing. Labour is still squirming in embarrassment. As Iain Gray said, it passed great housing legislation, but forgot to build the houses to implement it.

Schools in Deprived Communities (Funding and Teacher Support)

6. Liz Smith (Mid Scotland and Fife) (Con): To ask the First Minister what criteria the Scottish Government is using to allocate funding and teacher support for schools in deprived communities. (S4F-03162)

The First Minister (Nicola Sturgeon): We used the Scottish index of multiple deprivation, which is a long-established set of indicators that shows levels of deprivation in communities across Scotland, to identify the seven authorities with the greatest concentration of primary-age children living in the 20 per cent most deprived areas in Scotland. We have worked with those authorities to agree funding for the primary schools that would benefit most.

On Monday this week, I announced that an additional 57 schools outside those seven local authority areas have been allocated moneys through the attainment fund. They were identified by using the SIMD.

Liz Smith: Does the First Minister accept that evidence produced by experts such as Professor Sue Ellis and Dr Jim McCormick confirms that the majority of deprived pupils do not in fact attend schools in the most deprived areas? Does she therefore agree that Scottish Government policy,

which targets only selected schools in selected local authorities registering a high deprivation index, has its limitations and that a much better policy would be to target the available funds on individual pupils?

The First Minister: We are looking to target the money as effectively as possible; indeed, after listening to views and evidence, we have extended the programme beyond the seven local authority areas to a further 57 schools across, I think, a further 14 local authorities. As I said earlier in response to a question from Ruth Davidson, we will put forward further substantial proposals, as we get nearer to the Scottish election, on how we will extend the approach that we are taking.

I could not be more clear and serious about the commitment that I am making on educational attainment. If I am re-elected as First Minister—I take nothing for granted—I will be judged on that, among other things, over the life of the next session of Parliament. It is in my interests and, more important, in the interests of young people across our country that we do what needs to be done to deliver on that commitment. I am determined that we do exactly that.

The Presiding Officer: I apologise to the many back benchers whose supplementary questions I have been unable to take today. Some of those supplementary questions were very important from a constituency point of view, but leaders' questions and answers are taking 20 minutes, which is clearly unacceptable. I appeal yet again to the party leaders to cut down on the amount of time that they are taking for questions and answers.

Protecting Children from Harmful Online Content

The Deputy Presiding Officer (John Scott):

The next item of business is a members' business debate on motion S4M-15111, in the name of Stewart Maxwell, on protecting children from harmful online content. The debate will be concluded without any question being put.

Motion debated,

That the Parliament is concerned about children and vulnerable people accessing potentially harmful content online, including in the West Scotland region; welcomes the announcement that the UK music industry, Vevo and YouTube have agreed that the pilot to age-rate music videos by the British Board of Film Classification (BBFC) should now be made permanent for videos produced by artists signed to major UK labels and that independent labels will also take part in this voluntary initiative; notes that, according to BBFC-commissioned research, 78% of parents value age ratings on online music videos and 75% would like online channels to link those ratings to parental controls; notes calls for US and other non-UK record labels to voluntarily submit online music videos for classification by the BBFC and also for more online platforms to carry prominent age ratings and content advice for music videos classified by the BBFC and link those age ratings to parental controls; welcomes the decision of Scotland's four mobile networks, EE, O2, Three and Vodafone, to place mobile content that would be age-rated 18 or R18 by the BBFC behind access controls and internet filters to restrict access to that content by people under 18, and further notes calls for similar protections to be put in place for public WiFi and home broadband to ensure consistency of approach in protecting children from harmful content online.

12:33

Stewart Maxwell (West Scotland) (SNP): I am delighted to introduce this debate on the very important and topical subject of protecting our children and other vulnerable groups from harmful online content. First, I welcome the announcement that the pilot by the British Board of Film Classification to put an age rating on music videos made by artists signed in the United Kingdom is to be made permanent. That has been agreed by not only major music labels Sony Music, Universal Music and Warner Music, but YouTube and Vevo. It represents a big step forward in the regulation of online content.

The internet has really only been available in homes for about 20 years. It is a new and mostly unregulated medium. While it has many advantages, the lack of regulation has created some corresponding problems. Those problems have been compounded in recent years by the increasing availability of mobile devices such as tablets and smart phones, which mean that children who might before have been sitting at the family's personal computer in the living room are now in their bedrooms, where their viewing is entirely unsupervised.

Music videos only really began in the 1980s, with the rise of MTV, but they quickly became an integral part of pop songs. Quite often, a powerful video could help to sell a rather weak song. Music videos make a strong impression and sell records or downloads, which gives those videos great commercial value. The drive for sales has led to increasingly extreme lyrics and videos; the accessibility of the internet has contributed to that. Songs and images that could never have been commercially successful in the past because they were too explicit to have been shown on television can be made and streamed on the internet to be viewed by anyone, anywhere, at any time.

In the past, people producing music and videos that they wanted to sell to young people had to get past gatekeepers to access radio and television stations, through which they could communicate with young people. The radio and television stations were licensed and regulated and the organisations that ran the media companies were answerable for the content that they broadcast. Nowadays, music and video producers can talk directly to a child without the parents scrutinising or authorising what is being shown or said.

We are all aware of how impressionable children, particularly young children, can be, and of the highly sexualised, violent and, worst of all, sexually violent content of certain music videos. I am sure that that is a great concern to many of us. Analysis of academic research into music videos has found that women—disturbingly, particularly black women—are routinely portrayed in a hyper-sexualised fashion. That objectification of women, particularly along racial lines, is extremely unhealthy for boys and for girls and it is right that we shield children from those disturbing images, specifically those which involve criminality such as drug taking, which is a particular issue in some rap music videos.

I am, therefore, heartened that after the success of the British Board of Film Certification's pilot for major labels, independent labels in the United Kingdom are now taking part in a six-month trial to submit their videos to the BBFC for age rating. I hope that they follow the example of the major labels in making that classification permanent.

I was interested to note that, during the initial trial of the major labels, which took place in 2015, of the 132 videos that were reviewed, 56 were classed as suitable for children aged 12 or under and were given a 12 classification; 53 were given a 15 classification; and one video was classified as an 18. That sample shows that about 50 per cent of the music videos that are produced in a six-month period by UK-signed artists are unsuitable for people under the age of 15. However, I would be surprised if they had not

been viewed by a large percentage of children under that age.

One of the major advantages of this system of classification is that it is the same as that for films and is simple and widely understood. Everyone with children will be able to interpret the classifications immediately. A consultation that was carried out by the BBFC in 2013 of more than 10,000 people across the UK found that the public has great confidence in the classifications. The public agree with the BBFC's classifications in more than 90 per cent of cases; 95 per cent of parents with children who are under the age of 15 check the BBFC classification; and 84 per cent of parents with children who are aged between six and 15 consider that the BBFC is effective at using age-rating classification to protect children from unsuitable content. The system enjoys a high level of public confidence and support, and that is another heartening feature of this extension of the BBFC's classification system to music videos.

It is interesting to note that independent research into the pilot that was commissioned by the BBFC shows that 78 per cent of Britons would value age ratings on online music videos, and that up to 60 per cent of people aged between 10 and 17 are watching music videos that they think their parents would not approve of.

The rating system would provide clear guidelines for parents and children and make it easier for parents to impose and enforce rules in homes across the country about what can be viewed. I believe that many children will also welcome the classification system. I am sure that there are young children who have been shocked and distressed by some of the images that they happen to have seen and would welcome the fact that they have the security to be able to watch a video in the knowledge that they will not be upset by what it might contain.

Let me be clear: this is not about banning material that is suitable for adults; it is about ensuring that material that is not suitable for children is not available to children.

Another heartening development is the decision by Scotland's four mobile networks—EE, O2, Three and Vodafone—to place mobile content that would be rated 18 or R18 by the BBFC behind access controls and internet filters. It is worth noting that R18 is a special category for films that are particularly strong or explicit. R18 DVDs cannot be ordered by mail order, and have to be viewed in a specially licensed cinema or sold over the counter in a specially licensed shop. It is particularly important, therefore, that that material is not available to children. The BBFC is the independent regulator of mobile content and the system that has been voluntarily adopted by the mobile operators means that filters can be put in

place by parents to restrict the ability of people under the age of 18 to access online pornography and harmful sites such as pro-anorexia sites from their mobile phones. Nevertheless, there is a problem in that children can access those sites via their devices through public wi-fi in places such as coffee shops and shopping centres.

Different standards apply depending on how the information is accessed, whether through a public wi-fi system, mobile networks or home broadband. I believe that the time has now come to put stricter controls in place so that age ratings apply to accessing information via public wi-fi, in order to create a consistent system without loopholes that protects our children and other vulnerable people, no matter where they are accessing the internet from.

The BBFC's classification system is clearly a step in the right direction, but it applies only to online music videos for artists signed to labels in the UK. Non-UK-signed artists are not covered by the classification system and that is a problem. I therefore call on labels in the United States of America, from where so much popular music emanates, to voluntarily submit their music videos to the BBFC for classification, particularly as some of the most controversial music videos come from the USA.

The BBFC is an independent non-government body that was set up in 1912, so for more than 100 years it has been providing guidance for parents on the suitability of films and, later on—in fact, since 1984—guidance on the suitability of videos for children. It is to be congratulated on extending its role to online content to keep up with changes in technology, and I am pleased to commend the work of the BBFC to the chamber, while at the same time reminding colleagues across the chamber that there is still some way to go in ensuring a consistent approach to protecting our children from inappropriate materials online.

12:41

Graeme Pearson (South Scotland) (Lab): I stand in support of the motion by Stewart Maxwell and congratulate him on bringing this important issue to the attention of Parliament. The issue of protecting children from harmful content is easily manipulated in terms of questions about whether we are being nanny statish in the way in which we approach the issue, and whether we are creating a problem where many people would say that freedom of access is pre-eminent. I offer the view that we are not being overly protective. Stewart Maxwell rehearsed for us in his speech issues that are of great concern to us.

Looking around the chamber, I hope that I am not being unkind to the members who are here

when I say that the issue would probably be more productively discussed at the Scottish Youth Parliament, whose members would understand the issues a great deal better than the members who sit alongside me today, given our average age; SYP members are closer to the issue. I hope that I am not being unkind to my colleagues, but there is not only a lifetime of difference between our aspects, but centuries of difference between the approach that a 16 or 17-year-old would take to the matters that we are discussing and the approach that we are trying to develop here today.

Stuart McMillan (West Scotland) (SNP): As one of the younger members in the chamber, I agree with Mr Pearson's point that it should also be for the Scottish Youth Parliament to have this debate; perhaps that will foster a wider contribution from Scotland. However, as a younger member and as someone who has two young children, I think that it is also relevant and important that this Parliament, and other Parliaments and Assemblies in the UK, should have the same discussion.

The Deputy Presiding Officer: I will give you a little extra time, Mr Pearson.

Graeme Pearson: Thank you, Presiding Officer. I agree wholeheartedly with what has been said. I am not suggesting for a moment that it is not a matter for us, and I hope that I did not give the impression that that was the case. It is important, but we need to listen to those in the Youth Parliament environment, because they have things to tell us that we are probably not aware of, particularly in the context of the technologies that we speak of. We are somewhat distant from the modern developments that occur almost daily, although we need to try to keep up to date with those developments.

Stewart Maxwell has brought to our attention the important impacts that arise from the access to the internet that can be gained as a result of new technological developments. Harmful content online demands that all practical steps necessary to protect children must be taken. In this fast-changing world of new technologies, Government and other authorities should keep abreast of the developments in order to maintain security.

I invite Stewart Maxwell to consider that not only children but vulnerable adults need means of protection, because they can be influenced by what they might see on devices such as tablets. He touched on the point that it is not solely in the music industry but in the games industry where access to extensive violence, particular attitudes and a culture impacts on individuals who then become imbued with similar views. Across the world, we have seen people who have spent extensive time viewing unpalatable images on the

internet become involved in extreme violence and death.

This morning, I googled the subject of protecting children from harmful content. It took less than a second to get 92 million results. That is a matter of deep concern, yet *The Herald* reported in 2011 that only one in four parents in Scotland had initiated controls on their systems to limit the internet to try and protect those in their family from the distasteful images that might be available.

A standardised approach is necessary and the British Board of Film Classification provides a useful input in that regard. However, the authorities that oversee gaming should also standardise their approach with that of the BBFC.

I whole-heartedly support the motion.

12:47

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): I thank Stewart Maxwell for bringing this topical debate to the chamber. I have been looking at the consequences for a long time.

I welcome the conversation around classification. Classification has been long overdue, not only in the movie industry but in the games industry, as Graeme Pearson said. As the mother of two sons, I have always been a bit alarmed at the content of some of the games and music videos to which my sons were exposed, which seemed to normalise as aspects of everyday life things that should not be normalised.

I will touch on a topic that I have spoken about in the chamber a few times: the consequences of our amazing ability to access anything that we want, anytime, anyplace, anywhere, via 3G or 4G or a wi-fi connection. The ability to do that is valuable in opening up the world to our young people and giving them insights into so many things. However, there is a dark side to it, too—the technology can be used against young people, who can be exposed to things that are alarming and frightening and which normalise perhaps abnormal and scary behaviour. I want to talk about such consequences in the debate.

At a very early stage of the debate, I raised in the chamber the issues of revenge porn, the sharing of intimate images, the objectification of women and the use of such imagery to normalise a pattern of behaviour that makes people think that it is okay to get involved in such things.

The issue for me is that the sharing of images can lead to young people being groomed online, or being bullied into sharing intimate images of themselves that are then used on shaming sites. Some of those sites have such derogatory names that I will not repeat them in the chamber, because

they do not merit the attention—“shaming sites” is a catch-all term.

For some young people, that has led to serious self-harm or attempted suicide. In some well-documented cases, it has led to the suicide of young people who have been shamed so much by the sharing of intimate images across all platforms, whether on the internet or on social media.

I will focus my final remarks on the responsibility that internet and social media providers bear to some extent for such consequences. I know of many young people who have found it very difficult to have comments, mocked-up photographs or actual photographs and images of themselves removed from internet sites. The internet provider that they use in this country may be registered in another country and may therefore fall under a different jurisdiction. In that regard, there is an issue with the use of international law to protect our children. That is a real worry for me, and it must be looked at seriously. Internet and social media providers should take a leaf out of the BBFC’s book; they should look at the work that it is doing and consider taking forward some of its ideas.

The time has come when we need much stronger policies in this area, not only for the young people who access such information and use it to bully or shame, or who receive information that causes them desperate alarm, but for us as parents or as members of the community. How can we put pressure on organisations to ensure that when our young people go into the amazing world of online media, with all the benefits that that brings them, they are not exposed to some of the dark, scary stuff that is in there? How can we ensure that if they are exposed to it, they are able to handle it? As the parents and adults in young people’s lives, we must be equipped with information to ensure that we can support them when they have that type of experience.

The debate has been a long time coming, but we should not stop debating the issues. Technology moves on at a great speed, and we must be fleet of foot and move at that speed too. I would be keen to hear views on that.

Finally, the European Union is looking at taking action on a Europe-wide basis, and we should keep a weather eye on what is happening there. If we can take action across boundaries and borders, we will remove the problem of internet providers being registered in a different country, which enables them to say, “It’s not our problem—it’s a different jurisdiction.” That is the direction in which I would like to go on the matter. I thank Stewart Maxwell for bringing the debate to the

chamber. We should continue to focus on the issue.

12:52

Liz Smith (Mid Scotland and Fife) (Con): I congratulate Stewart Maxwell on bringing this extremely important debate to Parliament. I also pay tribute to the preceding speakers in the debate, who have made some excellent points.

The fact that children and young people are accessing potentially harmful content online is a matter that concerns us all. That is particularly the case with music videos, given their wide-ranging popularity and the fact that, until very recently, they did not have age ratings. Parents are clearly right to be worried about the ease of access to such videos and the challenges that that presents, as Christina McKelvie has just set out.

It is well known that some music videos contain explicit violent and sexual imagery that is totally unsuitable, so it is of paramount importance that parents are empowered with the tools—which Graeme Pearson spoke about—to enable them to make informed choices for their children.

Stewart Maxwell's motion refers to the research that the BBFC has undertaken, stating that

"78% of parents value age ratings on online ... videos".

In addition, 70 per cent of parents of children under the age of 12 are worried about their children being exposed to inappropriate content. Further, the BBFC found that as many as 60 per cent of the children who were surveyed said that they had watched music videos that they know their parents would not approve of. The message is coming from children just as much as from adults, and the combination of the views of parents and their children can take us quite a long way forward in trying to address the issue.

In October 2014, the UK Government launched its pilot programme—as Stewart Maxwell mentioned—in conjunction with Vevo, YouTube and the major UK music labels to introduce the new ratings system. The early signs are that that is proving to be very successful. I am pleased that that successful pilot scheme has captured the imagination of other parts of the music industry in the UK. I take this opportunity to commend the BBFC, YouTube and Vevo, as well as the wider UK music industry, for the voluntary proactive role that they have played. The people who have come to the Parliament to help us become more informed about the matter also deserve great credit.

Classification is a positive step in preventing children from viewing harmful content online. Christina McKelvie made an important point in that regard about children being able to understand the

choices that they have to make, which is something that has to get back to parents. Graeme Pearson made the perhaps ageist but nonetheless sensible point that we should be taking advice from those who are perhaps a bit closer to the issue than some of the rest of us.

Of course, that is not to say that there is not a great deal more work to do. One vital step is to ensure that age ratings are linked to online parental controls. Stewart Maxwell mentioned the phone companies' activities, which are also very positive.

I warmly welcome the progress that has been made to date.

Stewart Maxwell: I will say this now and will probably never say it again: I commend the work of the UK Prime Minister on this issue. I know that he has personally taken a very close interest and intervened directly in it—I think that his wife might have had some role in that. He has directly intervened to support work on the issue being pushed forward. I ask Liz Smith, as a Conservative member, to urge him to redouble his efforts to ensure that we spread the work to not just independent producers of music videos in the UK but those in other countries. He can talk to them in a way that none of us can. I am thinking particularly of the US and of ensuring that US companies and artists voluntarily sign up to the same classification scheme.

Liz Smith: Mr Maxwell's kind comment about the Prime Minister is a true reflection of David Cameron's interest in the issue. With regard to Mr Maxwell's request, I think that we will be pushing at an open door because I know for a fact that the Prime Minister is very determined on the issue; the Minister for Children and Young People has probably had discussions with him on it. However, I certainly undertake to pass on what Mr Maxwell said.

The Deputy Presiding Officer: We move to the closing speech from the minister, Aileen Campbell. Minister, you have seven minutes or thereby.

12:57

The Minister for Children and Young People (Aileen Campbell): Like all the other speakers in the debate, I am grateful to Stewart Maxwell for bringing this important issue to the chamber and creating the space for us to contribute to what has been a responsible debate that allows us to consider what more we need to do to keep children safe.

The protection of children's wellbeing is the responsibility of us all. We each have a duty to take the steps that we can to ensure that children and young people are not exposed to harm. That

is the case as much in our increasingly digital world as it is in our homes, schools, businesses and communities.

Although matters of internet regulation remain reserved to the United Kingdom Government, I continue to encourage it to collaborate fully with us through the UK council on child internet safety in recognition of Scotland's devolved responsibilities in key areas of internet safety. I say that because it took a bit of work for the Scottish Government to ensure that we were always involved in those discussions. Notwithstanding the Prime Minister's clear commitment to the issue, there needs to be an understanding that internet safety transcends boundaries and that it is important for us, with our devolved responsibilities for keeping children safe, to have the door to those discussions always open.

Like Graeme Pearson and Stuart McMillan, I recognise the need for young people to have input to the discussion. As I think Graeme Pearson was trying to say without offending us about our ages, young people are not necessarily to be found on Facebook, because that is often where their grandparents are. As new things develop online, we need to know where our young people are online—just as we want to know where our young people are when they are offline. We need to stay ahead of the game in that regard, which is why it is important to get young people involved in the discussions. They are the ones who can inform us about what is important to young people and how they are communicating with their peers.

Like Stewart Maxwell, Liz Smith and others, I welcome the voluntary steps that are being taken by the UK music industry to ensure that music videos are given age ratings by the British Board of Film Classification. I am committed to ensuring that we continue to work with the BBFC, as part of its advisory consultative committee, and with other partners within the industry to see whether more can be done to persuade companies that are based overseas and which have not yet committed to the initiative to do so.

Allied to that is the decision by the four main mobile networks to place content that is rated 18 or R18 by the BBFC behind access controls, meaning that such content can be excluded by parental controls. Those are important signals that the industry is taking seriously the valid concerns of parents about the ease with which children can access inappropriate content. I also welcome the scheme that allows businesses to display the friendly wifi symbol to show that the wifi provided by them is filtered and safe for children and young people to use.

Although those developments are welcome, they should not ever allow for complacency. There are still myriad ways in which children might be

exposed to harmful content, whether it be on the covers of newspapers or magazines that are displayed in shops and newsagents within a child's eye line, or online. The most significant online risks faced by our children and young people will not easily be eliminated by increasing parental controls or filters. The increase in peer-to-peer sharing of indecent images—revenge porn, as Christina McKelvie said—the growth in live streaming of child sexual exploitation, grooming for the purposes of blackmail and exploitation and the objectification of women all happen on platforms that lie outside the specifics that are mentioned in the motion.

The majority of content that is uploaded and online is not subject to a classification system that lends itself to parental controls or effective filters. A recent Ofcom survey demonstrated that many parents choose not to employ parental controls, so although parents want more control, in some cases and for many reasons, they are not taking that action. The reasons for that are many and varied. Some parents feel that their children can be trusted without the need for additional controls, while others point out that their children are never unsupervised while they are online. However, a significant proportion reported concerns that setting up controls appeared to be complicated and beyond their technical know-how. Industry therefore has a continued role in ensuring that such controls are accessible to as many people as wish to use them.

There is also a job of work for us to do. That is why the Scottish Government's digital participation strategy focuses efforts on helping everyone to develop the skills and confidence to become active digital citizens, and on giving the parents who have such concerns help, should they wish to use it. The Scottish stakeholder group for child internet safety will work with Police Scotland and other key partners in co-ordinating our response to the challenges in conjunction with the work that is being undertaken as a result of our national action plan on child sexual exploitation.

We must make it absolutely clear to perpetrators of online crime that the full force of the law will be brought to bear on them. We must not forget that the responsibility for crimes being committed online lies with those committing the offence, and we must ensure that deterrents are as robust as possible.

Moreover, the national sexual crimes unit within the Crown Office is doing important work on increasing the number of successful convictions of sexual crime, and Police Scotland's national child abuse investigation unit complements that work by providing consistent, high-quality support for robust investigations into reports of complex child

abuse and neglect, including child sexual exploitation and online child abuse.

We should also acknowledge the work that practitioners do to protect children every day, whether in education or other children's services. Many examples of original and creative approaches are being developed by schools and youth groups to educate our children and young people about the risks in a meaningful way that engages with them where they are.

It is also important to remember that we must not demonise the internet. As many members have noted, children and young people use the internet in ways that are unimaginable to those of us who did not grow up in the digital age, and we all want to see a Scotland where children are encouraged and enabled to benefit from the huge opportunities that are offered by digital technologies. We do not want to push our young people into the dark and scary places that Christina McKelvie talked about by constantly demonising the internet. Our language and actions need to be appropriate.

In conclusion, I welcome the approaches that the industry has taken so far, while recognising that more can and should be done. Parental controls are important tools, but the use of technical controls must be seen as a supplement to, rather than a replacement for, broader approaches that make it clear that parents do not shoulder the full weight of keeping children safe online. We must ensure that Scotland is seen as a hostile environment for online crimes, while promoting the digital world as being essential to our growth and prosperity, and encouraging and enabling all of our citizens to take part in online life to the fullest extent and to do that in the safest possible way.

Once again, I extend my thanks to Stewart Maxwell and the other members who have taken part in today's debate. I look forward to continuing our dialogue as we strive to ensure that our children can grow up safe from harm, especially in the online world.

13:05

Meeting suspended.

14:00

On resuming—

Higher Education Governance (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Elaine Smith):

Good afternoon. The first item of business this afternoon is a debate on motion S4M-15304, in the name of Angela Constance, on the Higher Education Governance (Scotland) Bill.

The Cabinet Secretary for Education and Lifelong Learning (Angela Constance):

I am delighted to open the debate. I start by thanking the Education and Culture Committee for its stage 1 report, and also the Finance Committee and the Delegated Powers and Law Reform Committee for their contributions to the lead committee's work.

I want to do three things in my opening remarks—first, to emphasise why the Scottish Government believes that the Higher Education Governance (Scotland) Bill will enable more modern, inclusive and transparent governance in our higher education institutions; secondly, to highlight the constructive engagement that we have had with stakeholders; and finally, to provide a summary of the amendments that we intend to lodge at stage 2 should Parliament vote for the bill to pass stage 1.

I consider the bill to be focused and discrete, with provisions that are informed by the review of higher education governance that was chaired by Professor Ferdinand von Prondzynski, whose report was published in 2012. Ministers commissioned that report to obtain evidence on how higher education governance could be refined as we move further into the 21st century.

Higher education institutions are autonomous—I am crystal clear on that. However, in tough economic times, the Scottish Government has again identified in its draft budget more than £1 billion of investment in our higher education sector, which will be provided next year. As part of the return on that investment, we expect institutions to adhere to the highest standards of governance.

Our higher education institutions are a great source of pride to Scotland and enjoy a worldwide reputation for excellent teaching and research. However, like any other group of high-performing organisations, they are capable of change and improvement. I want our institutions to embrace the changes that the bill will introduce. At its heart, the bill is about ensuring that all voices on campus are heard and empowered to contribute to decision making.

Jim Eadie (Edinburgh Southern) (SNP): I welcome the thrust of the bill, which seeks to make our universities' governance arrangements more inclusive and accountable. The cabinet secretary will be aware of the evidence that was given by Tim O'Shea, who stated:

"the success of UK universities in comparison with universities in other parts of Europe is put down to our autonomy and our ability to operate."—[*Official Report, Education and Culture Committee*, 6 October 2015; c 25.]

What further assurances can she provide that the wide scope of the proposed secondary legislative powers will not undermine the independence of our world-leading universities?

Angela Constance: As I have said to people repeatedly, our universities are and will remain autonomous. There is nothing in the bill as introduced, nor will there be anything in the bill after stage 2, that will advance ministerial control in any way. As I proceed with my opening remarks, I hope to outline fully to the Parliament how the Government will remove or reduce any regulatory powers that are deemed to be no longer necessary.

As is noted in the Education and Culture Committee's stage 1 report, the bill

"contains relatively few provisions but has generated ... considerable ... comment".

Our response to that has been to listen to those who support the bill and those who do not. I am grateful to all stakeholders for the views that they have offered and their participation in the meetings and workshops that we have hosted.

I welcome the committee's support for the bill's general principles. On Monday, I wrote to the committee to respond to its report and to set out the Scottish Government's full analysis of any risk that the bill could present to the status of our higher education institutions as private not-for-profit bodies, as classified by the Office for National Statistics. The Scottish Government does not hold the view that the bill adds to any existing risk of reclassification of HEIs as public bodies.

Liz Smith (Mid Scotland and Fife) (Con): Will the cabinet secretary tell us where the mathematics or arithmetic is to back up that point?

Angela Constance: We can all have a good, robust debate about mathematics. I could take issue with some of the arithmetic and the evidence that was presented to the committee. If we look at the evidence from Universities Scotland and the action that it called for to reassure it that nothing in the bill will increase the risk of ONS reclassification, we find that—importantly—the Government is responding to those requests for reassurance, even though we do not think that reassurance is required. We are taking clear

action to ensure that the sector can go forward collegiately and as one where possible.

In line with the substantive view that the Office of the Scottish Charity Regulator offered, the Scottish Government does not believe that the charitable status of Scotland's HEIs is in any way jeopardised. However, we have considered whether amending the bill at stage 2 would assist in addressing concerns that stakeholders have expressed. I will summarise our plans for potential stage 2 Government amendments in a moment, but I will repeat what the Scottish Government has made clear on many occasions: reclassification of Scottish HEIs is an outcome that we would never want.

I turn to planning for stage 2. Although the Scottish Government is clear in its view that the bill does not advance any risk of reclassification by the ONS, I will lodge amendments to remove sections 8 and 13 of the bill, which give ministers the power to make regulations to alter provisions on the composition of governing bodies and academic boards.

The Scottish Government intends to lodge a stage 2 amendment to replace section 1 with full provision for a model for the operation of elected chairs.

Chic Brodie (South Scotland) (SNP): Will the cabinet secretary take an intervention?

Angela Constance: Perhaps I will if there is time later, Mr Brodie. I am keen to make more progress.

In summary, we will require HEIs to advertise those positions. Interested applicants will be selected for an interview on the basis of their ability to carry out the duties that are associated with leading a modern Scottish HEI. If successful at an interview process that is managed by a nomination committee, which will feature staff and student representatives, candidates would then participate in an election, in which all staff and students in an institution would be able to vote.

I can confirm that plans for elected chairs, who will be the senior lay members of all governing bodies and are often called senior governors or vice conveners at present, will result in no alteration of the statutory underpinning of existing rectors in our ancient universities. As is the case now, the way in which rectors dovetail with the new elected senior governors will be a matter for each autonomous institution.

We plan to lodge an amendment concerning the remuneration of chairs, which will alter section 2 to provide only that HEIs must offer reasonable remuneration to an elected chair in connection with carrying out that role, on request by the chair. On balance, I do not consider that retention of a

power for ministers to set levels of remuneration or to delegate that role to other persons is necessary.

Having scrutinised all the evidence provided by the committee and stakeholders on the composition of governing bodies, I intend to lodge an amendment to remove the obligation for HEIs to have two alumni on each governing body. That will assist institutions to accommodate staff, students and trade union members more easily on bodies on which the maximum number of members is set at 25 in the Scottish code of good higher education governance.

I am minded to lodge an amendment to remove section 9, which will mean that HEIs need not be obliged to limit the number on their academic boards or senates to 120. To ensure that institutions with larger academic boards have a fair representation of students, without being obliged to ensure that 10 per cent of the body comprises elected students, the Scottish Government favours a ceiling of 30 elected student members.

We have taken careful note of all the evidence that has been presented on academic freedom. In light of that, we are considering the final form of the relevant provisions. I have been struck by the importance of ensuring that academic freedom cannot be cited as a cover for any views that are offensive or, indeed, criminal.

All those potential amendments have been influenced by dialogue with stakeholders. Although stakeholders will be familiar with them, not all will support each proposed amendment. However, I am confident that broad support for a number of them will be evident.

In drawing to a close, I emphasise three key points. The Scottish Government values on equal terms Scotland's higher education institutions, the staff who work in them and the students who attend them. I believe that this modest and focused bill can enable more modern, transparent and inclusive governance practice. I have been listening and I will continue to do so. I want to work with our universities in partnership in the years ahead.

I move,

That the Parliament agrees to the general principles of the Higher Education Governance (Scotland) Bill.

The Deputy Presiding Officer: I call Stewart Maxwell to speak on behalf of the Education and Culture Committee.

14:11

Stewart Maxwell (West Scotland) (SNP): There is a strong consensus that our higher education institutions should uphold the highest standards of governance. However, there are differences of opinion about the Scottish

Government's role, about current standards of governance in the sector and about some of the measures that are proposed in the bill.

As we are aware from the debate that was held in the chamber during our stage 1 scrutiny, there has been extensive discussion of an issue that is not even mentioned in the bill—namely, the possible risk of our universities being reclassified. According to many voices, higher education governance is in a good state. Certainly, universities were keen to point out the link between their international success and their existing governance arrangements, while highlighting their continuing work to make further improvements.

Neither the review that led to the bill, which Ferdinand von Prondzynski chaired, nor the cabinet secretary provided specific examples of deficiencies in the sector. Even some unions—the strongest proponents of change—acknowledged that the bill would not be starting from a position of real weakness. For example, the University and College Union Scotland said:

“No one is questioning that Scottish universities are good—they are good.”

Crucially, however, it added:

“What we are saying is that they could be so much better if staff, students and trade unions were fully involved in how they operate.”—[*Official Report, Education and Culture Committee*, 6 October 2015; c 11.]

That appears to us to be the nub of the bill. Will it help to make a good system even better? Will it help to reduce the risk of some of the poor instances of governance that were highlighted to us recurring?

Overall—with the exception of two members—the committee supported the bill's general principles of strengthening governance in higher education. However, we were clear that the Scottish Government needed to provide further information on various issues to fully inform the debate. That demand reflected the fact that much of the bill's detail was still under active consideration when we published our report.

I thank the Scottish Government for responding to our report in good time for the debate. It is clear from that response that, should the bill progress to stage 2, there will be a significant number of amendments for us to consider. Many of the proposed changes reflect the recommendations from our stage 1 report, and it is welcome that the Scottish Government has responded positively to our concerns.

The Scottish Government has taken into account our view that it should have provided more justification for some of the provisions contained in the bill. For example, we queried the

rationale for universities' academic boards being limited to 120 members. The Scottish Government's response says that it engaged with Professor von Prondzynski during stage 1 and subsequently came to the view that it might be better to remove the cap.

The Scottish Government has clarified another key provision of the bill, which is that the Scottish ministers are to determine a process by which institutions appoint the chairing member of their governing bodies. Our report expressed support for measures that could increase the pool of suitable candidates for the post of chair. We also agreed that openness, transparency and consistency in the appointment process are desirable.

However, we noted a lack of detail on how the chair is to be appointed, so I welcome the fact that the Scottish Government's response provides more information on the steps involved. On the specific issue of possible remuneration for governing body chairs, I appreciate the fact that the Scottish Government has responded to our concerns by flagging up relevant amendments for stage 2.

We said that the role of rector—a historic and often high-profile figure in Scotland's ancient universities—should be clarified. If there are to be elected chairs and elected rectors, there should be no ambiguity about their respective roles, and both figures should be able to work together for the good of the institution.

Chic Brodie: Is it not conceivable that the rector, having been elected by the wider franchise, could take a co-chair's role in looking at the policy of the university? The chair, who must be elected by the court, would then be responsible for chairing items of operational performance. Would that be a suitable way to achieve the objectives of widening the franchise, making sure that the rector is where he or she should be and allowing the elected chair of the court to participate fully?

Stewart Maxwell: That is one of the possible models that could arise from the Scottish Government's suggestions and the work that the Government and the sector will take on. Given that I am speaking as convener of the committee, I will not give a view on whether that model should be chosen. I will say only that there should be flexibility across the sector to allow it to figure out the best way of going forward along with the Government in subsequent discussions. I note that there will be amendments in this area and that the Scottish Government's view is that it will be up to institutions to ensure that rectors and elected chairs work effectively together.

The bill proposes the inclusion of new members on the governing bodies of institutions, including

trade union representatives. Higher education institutions stressed that union representatives on governing bodies should be there in a representative capacity for all staff, to avoid the possible accusation of a conflict of interest.

We were not persuaded by such arguments and we noted that all members of a governing body must act in its best interest. We also agreed with the principle that a diverse group of people should be included on the governing body and recognised that the bill's proposals would make governance more inclusive. However, we recognised that such changes would not in and of themselves guarantee improved governance.

HEIs were concerned about how they would accommodate the changes to governing body membership, given that such bodies are not supposed to have more than 25 members. Concerns about changes to the governing body were just one of the reasons that the Royal Conservatoire of Scotland cited in its recent letter to the Scottish Government to ask to be excluded from the bill. I am sure that we would all very much welcome the cabinet secretary's views on that request.

I would like to know whether institutions are likely to be reassured by the Scottish Government's suggestion that governing bodies are not now to include two graduate members. That did not seem to be a major concern in our evidence taking. They might be more comforted by the Scottish Further and Higher Education Funding Council's response to our report, which in summary said that it would not be concerned by a short-term increase in governing-body membership.

I have already touched on reclassification. There is no specific reference to Scottish HEIs being included in the relevant work that the ONS is carrying out. Nonetheless, we appreciate that reclassification would be in no one's interest and recommended that all reasonable measures be taken to minimise any risk of it occurring.

In part, the HE sector's concerns stem from the sections of the bill that would give the Scottish ministers the power to make regulations about governing bodies and academic boards. We therefore welcome the cabinet secretary's commitment to amend or remove sections 8 and 13.

However, despite what the cabinet secretary said a moment ago, I remain disappointed that the Scottish Government has still not adequately addressed our request for further information on academic freedom and specifically on students' freedom. I expect a response to the committee on that issue as soon as possible.

A key consideration when scrutinising any bill is the improvement that it is likely to deliver. Such a judgment may be particularly difficult with this bill, as separate efforts by HEIs are also under way to improve governance. We therefore asked the cabinet secretary how she would evaluate the bill's success and were pleased when she confirmed that the sector would play a role in monitoring the bill's impact. We expect that to be a fully inclusive exercise that involves all the relevant bodies in the higher education community. That would be consistent with the bill's aims and would encourage everyone to continue to focus on improving our already world-class higher education sector.

14:19

Iain Gray (East Lothian) (Lab): It seems to me that we have debated the bill and its measures a number of times, so it is quite hard to believe that we are just at the stage 1 debate. Nonetheless, that is the case, and there is therefore some value in turning back to the bill's first principles and to why, throughout the process, Labour has taken the position that it has taken.

We support democratic and transparent governance in our higher education institutions. It is our view that, as they are the recipients of more than £1 billion of public funding every year and are central to the future of Scotland, it is reasonable that we ensure that their governance is modern, transparent and fit for purpose.

We also support trade union and student representation on the council. That should be no surprise: we are the Labour Party and of course we support trade union representation. We have never accepted the argument mounted by some that trade union representatives on a body such as the council will face conflicts of interests and sometimes difficult situations when they are part of making collective decisions that those who they represent might find hard to understand. Those of us who have been trade union activists in other lives know that wherever trade unions have representation that is the sort of difficulty and contradiction that representatives have to deal with every day.

As a principle, we support the autonomy and academic freedom of our universities. Over centuries that has been one of their greatest strengths and it must be preserved.

Finally, we have been at pains to be clear that we do not support measures that pose a risk to the fiscal basis of the higher education sector through jeopardising either the institutions' charitable status or their ONS classification.

Underpinning all that is our acceptance that the legislation is needed, largely because, we would

argue, the voluntary code has failed. There has been a serious question around transparency of governance in the sector over recent years, which is perhaps most dramatically characterised by pay settlements for senior staff and particular principals. Although some have argued that the voluntary code developed by the principal of one of our universities would be enough, we are not convinced, because the voluntary code is in place but the transparency is not.

The University and College Union Scotland, in the helpful briefing that it provided for today's debate, points out that after the voluntary code was put in place, it submitted freedom of information requests to try to ascertain how principals' pay had been determined in remuneration committees. Only a handful of the 19 higher education institutions in Scottish were willing to provide that information, and many of those that were provided it in a form so redacted as to be completely useless. Therefore it is not the case that the voluntary code is enough.

Given that we are at stage 1 of the bill, we are entitled to consider the bill as introduced. Although we support the principle of the bill, we have been very clear that the bill as introduced fails on many counts. It fails to describe in detail the process of the election of chairs—a measure that we support—and includes sweeping discretionary ministerial powers that could be used to change the governance of higher education institutions in the future without reference to Parliament. The bill veers into areas that seem to us to be completely unnecessary, such as the size of the academic court, and it has ignored the historical position of rectors.

Jim Eadie: The member will be aware that the University of Edinburgh has very strong and inclusive governance arrangements, which include the election of the rector by both students and staff. Does he agree that the bill provides an opportunity to roll out that exemplar of good practice across our higher education institutions?

Iain Gray: In light of the amendments that the Cabinet Secretary for Education and Lifelong Learning has promised to lodge, the bill may at least recognise the strength of the model that is already in place in Edinburgh.

After many months of what the education secretary called "constructive engagement", which was really much angst, she has finally explained to us how she intends to improve the bill. She says that she will do that by removing sections 8 and 13, which contain discretionary ministerial powers; detailing the elections and removing discretionary powers in that respect—that is all helpful in terms of the ONS point; and removing the cap on the size of the academic court. She also says that she recognises, and will ensure that the bill does not in

any way inadvertently end, the system of rectors in the ancients where it exists.

Of course, not all of that has been done with good grace. The education secretary continues to argue that there is no ONS reclassification risk. As I have pointed out before, that is not good enough. We have been here before: we were promised that the ONS issue with colleges would be resolved. However, it never has been, and as a result colleges have had to resort to arm's-length trust funds, which is an extremely unsatisfactory position. I would argue that all that angst has been unnecessary and all those things could have been avoided if only the bill had been properly drafted in the first instance.

From the word go, the education secretary said that ministers have no desire to use discretionary powers to change the governance of institutions in the future. That begs the question as to why they were in the bill in the first place. The truth is that we—not us in particular, but the sector itself—have lost a lot of time over the bill. That time would have been better spent on what the sector does best, which is to educate our young people, carry out world-class research and make an enormous contribution to our economy. The process has been far more of a diversion than it would have been had the bill been delivered properly.

This evening we will give the bill the nod because we support the principle of it, but we will also be shaking our heads at the incompetent shambles of its handling.

14:26

Liz Smith (Mid Scotland and Fife) (Con): When the bill was first mooted, the Scottish Government made it very clear that its only intention was to make some minor amendments to allow greater transparency when it came to the governance and management of universities and their accountability for large sums of public money. That public money sits alongside lots of other income streams and lines of accountability about which there seem to be no concerns in relation to university governance.

Something very different has transpired, as is clearly set out in the Education and Culture Committee's report and as the convener set out in his speech. Notwithstanding the strong support from the UCU and the NUS, the bill met with an exceptionally hostile reaction within the university sector, which is a sector that in my opinion has always bent over backwards to work with the Government. The committee's report states that the bill also met with a hostile reaction from groups such as the Scottish Council for Development and Industry and the Institute of Directors, and from many in civic Scotland.

There are several reasons for that reaction, but, as the committee's report makes clear, one of the most important is the stark lack of good-quality data and analysis to demonstrate why the Scottish Government considered the bill necessary and its failure to provide bona fide evidence to support the key assertions in the bill. Education and Culture Committee members castigated the Scottish Government no fewer than six times for that lack of evidence and the lack of clarity in the proposals. Therefore, for many people the main issue remains the utter failure to demonstrate that there is a problem with the existing system of governance that somehow acts to the detriment of higher education.

Jim Eadie: Will the member take an intervention?

Liz Smith: I will not, if the member does not mind.

It became increasingly evident that there was some seriously flawed thinking in the bill when it came to the question of ministerial powers, ONS reclassification and democratic accountability in governance. The whole sector, including the unions, was crystal clear that several key aspects of the bill, most of which related to sections 8 and 13, would change the very nature of our higher education institutions, specifically by increasing ministerial powers and making universities public sector bodies. The Scottish Government denied that that was its intention but that was indeed the interpretation of the wording in the bill.

Universities Scotland had, and still has, substantive reasons for being concerned about the prospect of ONS reclassification of universities. When the Government persisted in its claims that reclassification presented zero additional risk, there was no detailed independent advice—and there still is none. Indeed, there were no estimates of the costs that universities might face—

John Mason (Glasgow Shettleston) (SNP): Will the member give way?

Liz Smith: If the member does not mind, I will not as I am very short of time.

That crucial point was very clearly expressed by Alastair Sim, Professor Anton Muscatelli and Garry Coutts at the Finance Committee. We still do not have that information.

Another crucial point relates to the section whose wording expressly gives ministers the power to amend universities' constitutions by altering the composition of their governing bodies—

The Deputy Presiding Officer: Ms Smith, can I stop you for just a second? I am afraid that we had a slight problem with the clock, so please do not think that you are at 10 minutes. I have a little bit

of extra time in hand. It is your choice how to proceed.

Liz Smith: I will take 20 minutes, Presiding Officer, if you so wish. [*Laughter.*] How long do I have?

The Deputy Presiding Officer: I can give you another two or three minutes.

Liz Smith: Thank you very much.

The third issue, which is crucial, is about governance and democratic accountability. Some commentators seem to argue that the universities criticise the relevant part of the bill because they cannot see beyond their ivory towers and are choosing to hide behind the convenient protection of autonomy because they do not want any change. Nothing could be further from the truth.

Indeed, universities have gone to great lengths to demonstrate why the bill would actually diminish rather than enhance democratic accountability, and to argue for the benefits of the code, which was designed by all stakeholders. They have explained to the Scottish Government many times why the crucial trust between a chair and the board might be compromised by the system of elected chairs that the Government is proposing. They ask why on earth a Government would want to legislate on the size of academic boards and the definition of academic freedom. They ask why there is a complete lack of clarity about how the post of rector fits into the new proposals. They ask about the nonsensical commitments to the stipulations about the size of governing bodies, which would mean that certain posts, which are elected by staff, would disappear. They have asked the Government to address concerns about whether a good range of candidates will come forward, given the experiences that have been flagged up by the NUS. Finally, they have asked, yet again, the Scottish Government to answer—with evidence—the Education and Culture Committee's 17 concerns. To date, there has been an entirely unsatisfactory response. Indeed, with regard to the question about maintaining the strong link between chair and board, the Scottish Government woefully admits that it has

“not undertaken specific research in this area”,

and it seems that the Scottish Government thought to consult Ferdinand von Prondzynski on the academic boards only after the bill had been published and the stage 1 evidence sessions had taken place.

Jim Eadie: Will the member give way?

Liz Smith: I am in my last minute.

Governance arrangements that minimise the likelihood of serious conflict in the governing body

are those that are most likely to promote good governance. The bill, however, does not do that.

There are some who believe that the bill as introduced would pave the way for a sector that would be bound by a new and, in their eyes, better approach to governance, making the 19 higher education institutions much more uniform in their structures, much easier to control and therefore better able to deliver best value for students and staff. However, the evidence for that is simply not there, which is why there is such strong public outcry at what the bill could do—wittingly or unwittingly—to one of the jewels in the crown of Scottish life. The bill could undermine the very foundations and principles on which the sector has survived and thrived for hundreds of years. On that basis, we cannot support it at stage 1.

14:32

George Adam (Paisley) (SNP): I welcome this stage 1 debate although, like Iain Gray, I feel as if we have had this debate already on a number of occasions.

I want to raise a couple of issues. The first is that the Scottish Government is clear that our successful and internationally renowned universities are, and will remain, autonomous bodies. That is only right; the important point for me is how we can help them to grow to become even better than they are at the moment.

I do not think that the Scottish Government is being unreasonable when it asks for the very highest standards of governance, considering that it invests more than £1 billion every year in the sector. It is only right that it would expect those high standards—surely that is not too much to ask.

I could stop at that, Presiding Officer—some in the chamber of might think that that is a good idea—but I will not, as I have much more to say.

Many who provided evidence to the committee agreed that the debate and the bill are about ensuring that our universities continue to succeed. Stewart Maxwell, the convener of the committee, has already quoted Mary Senior, of UCU Scotland, but I think that it is a very important quote. She said:

“No one is questioning that Scottish universities are good—they are good. What we are saying is that they could be so much better if staff, students and trade unions were fully involved in how they operate.”—[*Official Report, Education and Culture Committee*, 6 October 2015; c 11.]

That shows the enthusiasm for the bill that exists in the sector, and the enthusiasm of the sector to work to make the bill even better. We also heard from Professor Von Prondzynski, the principal and vice-chancellor of Robert Gordon University. He said:

“Universities are autonomous bodies, and should be. But their autonomy should not shield them from legitimate expectations that they engage with staff, students and external partners, or from the need to behave in an accountable manner.”

Those quotes explain the position perfectly. Here are two individuals who work in different parts of the sector, both coming to the conclusion that we must move forward. We cannot allow these world-renowned universities to be left behind. The world continues to spin, time moves on and we all need to move forward and progress.

That brings me to the ONS question. In all honesty, I believe that the argument has been used in order to keep us from talking about the many positives of the bill. That in no way means that I take the threat of ONS reclassification lightly, and nor does the Scottish Government, which has stated continually that it does not believe that the bill would lead to reclassification and that, if universities were to be reclassified, it would do all in its power to fight against that. I agree with the cabinet secretary, who states in her letter of 11 January to the committee that

“the Scottish Government concluded that the Bill did not propose any additional risk of re-classification, with specific reference to these secondary indicators of control ... we do not agree with the conclusions reached in the advice provided by Anderson Strathern on what is primarily a matter of statistical classification. However, we have taken careful note of all evidence shared with both the Finance Committee and the Education and Culture Committee. In light of this, I plan to lodge a number of Scottish Government amendments at Stage 2 of the Bill’s consideration. A number of these are relevant to the points made in the Committee’s Stage 1 report. Specifically, the Scottish Government will consider removal of sections 8 and 13 in the Bill.”

That is welcome, because it gives us the opportunity to discuss the important parts of the bill. Too much time has been spent on what could have happened or should have happened—

Sandra White (Glasgow Kelvin) (SNP): George Adam has mentioned the amendments that will be lodged at stage 2. Will they be effective in the case of the Royal Conservatoire of Scotland and Glasgow School of Art, which have made representations to the committee?

George Adam: I remember their evidence well. I will need to wait and see what is proposed at stage 2 in order to discuss where we might go with that.

A lot of our discussions have been about what might have happened, could have happened or should have happened with the Higher Education Governance (Scotland) Bill, and we have not said enough about what it actually delivers. It will deliver a democratic structure of accountability for all our institutions, whether they are relatively new institutions or one of the ancient establishments. It

will bring all their governance structures into the modern era. There is not only a need for accountability for the money invested by the taxpayer, but a need for a more diverse governance model.

That for me is the prize. We can make a difference and move our institutions forwards, away from what appears to be a Victorian gentlemen’s club. The bill gives us an opportunity to take our successful universities and not only make them more transparent but ensure that they are fit for purpose in the current century. I hope that we can all agree that the bill is a starting point for the future of our higher education sector, and I encourage my fellow MSPs to work together to make that vision a workable reality.

14:37

Cara Hilton (Dunfermline) (Lab): I am pleased to follow George Adam. I think that that was the first time that he did not mention Paisley in a speech—very novel. It is pleasing, too, to have an opportunity to speak in today’s debate.

Our universities make an outstanding contribution to the academic, economic, social and cultural life of our country, and Scottish Labour welcomes their continued success in the face of budget pressures, in attracting high-quality staff and students from right across the world and producing groundbreaking research. We also value the vital role that our universities play in the economy by employing more than 42,000 people and supporting more than 144,000 jobs across Scotland.

However, there is no doubt that our higher education institutions could benefit from being a lot more open and accountable. Although universities rightly value their academic freedom, which must be protected, that does not exempt them from the need to be governed properly and run effectively. The bill provides real opportunities to address the shortfalls in university governance.

Liz Smith: Universities Scotland is adamant that there are about 500 lines of accountability with bodies other than the Scottish Government. None of them seems to have any problem with that. What is Cara Hilton’s comment?

Cara Hilton: If Liz Smith waits until I am further into my speech, she will hear why I think that the issue needs to be addressed. She should just be a wee bit patient.

I welcome the measures in the bill to improve accountability and transparency in decision-making structures, which will give staff, students and trade unions a real voice and a real say in the future of the universities in which they learn, teach and work.

It is only right that public institutions that receive many millions of pounds from the taxpayer are run openly, democratically and transparently. When we consider some of the issues that have hit the headlines in recent months and years—notably universities' investment decisions, job losses and senior management pay—we get a flavour of why more democracy and transparency are so important. I have no doubt that governing boards would make better decisions if they better reflected the student and staff body, so the proposed changes are welcome. However, we can do more to make university governance better and more representative and inclusive.

In its briefing for the debate, NUS Scotland highlights the fact that although women make up more than half the student population, only a third of governing board members are women. I would like to see the bill go further by introducing quotas on university boards in order to ensure fair representation. That was recommended in the 2012 review—not including that measure in the bill would be a missed opportunity.

Iain Gray highlighted senior management pay. Although I hope that that issue will come under much greater scrutiny with student and trade union involvement on governing bodies, that alone is not enough to tackle the unreasonable pay increases in the sector. Research by NUS Scotland found that 88 individuals at Scottish universities earn more than the First Minister and that only one principal earns less than £140,000 a year. It cannot be right that university principals on six-figure salaries are taking huge pay increases of up to 13 per cent, along with expenses allowances that are often worth tens of thousands of pounds, while their staff are told year in and year out to accept pay increases that are below inflation and represent real-terms pay cuts.

Iain Gray also highlighted the secrecy that surrounds such pay decisions. That secrecy cannot be right, either. The University and College Union highlighted in its briefing that more than two thirds of higher education institutions failed to respond to its FOI request on the rationale behind those out-of-touch pay rises for university principals.

Given that every year more than a billion pounds of public money—quite rightly—goes to support our universities, it is only right that there should be public scrutiny of the excessive wages that many people at the top in our universities receive while staff at the lower end of the scale struggle to get by. I hope that we can look at strengthening the bill at stage 2—or at least produce guidance—to ensure fairness in pay structures.

The bill is not perfect by any stretch of the imagination, and its limitations have been raised

by members today and in our previous debates, but it is a welcome step forward. It provides an opportunity to make university governance better, so I am pleased that the cabinet secretary and the Scottish Government have listened to Scottish Labour and others' concerns about the more controversial aspects, such as the election of chairs and ministerial powers. There are issues in relation to Office of National Statistics classification that I hope can be resolved before the bill is passed. I also hope that we will see progress on gender balance and fair pay, and that we can work together to ensure the best possible outcomes for staff and students and for the higher education sector.

14:42

Clare Adamson (Central Scotland) (SNP): As a member of the Education and Culture Committee at the start of the process who left some months ago, I was glad to see in the stage 1 report and the Government's response to it the progress that has been made, which displays an open and inclusive process in which stakeholders have been able to make their concerns known and their voices heard throughout. That reflects a collegiate approach to where the bill will go as it progresses through stages 2 and 3.

The process began with the commissioning of Professor von Prondzynski's review, which was published in January 2012. We have had one quotation from the professor: I want to share another. In March 2015, he said:

"None of this is about government control. None of our recommendations, and indeed none of the proposed elements of the government's planned legislation, would give any power to ministers to interfere in the running of institutions. Indeed the government has made it clear that it has no wish to exercise any such power."

It is an important principle to have been established as we progress the bill that the academic freedom of the universities and the higher education institutions will not be compromised by the proposed governance changes.

Nonetheless, we have to make progress: this is the 21st century. I agree with some of Cara Hilton's comments about diversity in our universities. The UCU, in its briefing for the debate, states that it can

"welcome the decision of the Education and Culture Committee to support the bill at stage one."

It goes on to state:

"The measures contained in this bill, particularly those to introduce elected chairs of governing bodies and for trade union and students nominees to have places on the governing body are areas where UCU have campaigned over many years. We are also supportive of the limited

proposal to extend the 2005 definition of academic freedom contained in the bill.”

Such a response to the proposals and the stage 1 report shows that we are moving in the right direction in respect of diversity, transparency and openness in the governance of our HE bodies.

The question has been asked, and there has been some comment, about why the legislation is necessary and whether such a way forward should have been adopted at any stage. NUS Scotland, in its briefing for the debate—which has already been quoted—states:

“We believe that an inclusive governing body can only be so when it accurately represents the community it governs and as the HE Governance bill currently stands it would fall short of its desired benefits. NUS Scotland would welcome the opportunity to work with MSPs to explore amendments at Stage 2 concerning fairer representation on governing bodies.”

I am not sure that such amendments are needed at stage 2, because there will be a lot of guidance associated with the bill that could address some of the equalities issues in the way that NUS Scotland is looking for. However, that comment from the NUS shows that our universities do not reflect our communities or their own university communities. The move to include trade unions and students in the governance and on the academic boards of the universities is a positive measure for the future. I hope that the guidance and the organisations that will contribute and nominate people to the boards and governing bodies will consider all aspects of diversity and equality.

14:47

Liam McArthur (Orkney Islands) (LD): I start by echoing the convener’s thanks to all those who helped the committee in its stage 1 scrutiny of the bill.

Earlier this week we debated how to create a world-class education system. I said then that there are examples of where that is already the case in Scotland, and nowhere is it more evident than in our university sector, where the figures—I believe—speak for themselves. I accept that constant improvement is essential, and that adapting to changing needs, expectations and circumstances is the only way of safeguarding and enhancing standards and reputation. However, we have something to celebrate, value and respect—unfortunately the bill fails to do any of those things.

George Adam’s description of our universities as being akin to “a Victorian gentlemen’s club” is one that the sector would fiercely reject, and one that I think Mr Adam may come to regret. One of the sector’s great strengths is its differences—from the variety of its institutions to the diversity of staff and student populations. The governance of our universities should reflect that diversity. Given

the significant public investment, Parliament and Government also have a legitimate interest in that respect. However, ministers—indeed, all politicians—should tread with care. In the bill, sadly, care has been abandoned as ministers appear to be intent on putting into statute things that do not belong there.

The Government is legislating not because it should or because it needs to, but because it can. Time and again—as the convener fairly pointed out—our committee sought evidence for why ministers are acting in that way. What governance models elsewhere in the world are we trying to emulate, and how can we be assured that ministerial meddling will make things better and not worse? None of those questions has been answered to any satisfactory extent.

On the up side, I note that the education secretary is minded to remove from the bill sections 8 and 13, which run the risk of leading to universities being reclassified. Whatever the scale of that risk, ministers should not, given the serious financial consequences for our HE sector, be playing a game of chicken with the ONS. Likewise, it is good to see that the Government does not now plan to legislate on the size of university senates—but why on earth was it meddling there in the first place?

As for elected chairs of governing bodies, the plans that have been arrived at look like the dog’s breakfast that many people predicted. During stage 1 evidence taking, the committee convener expressed his curiosity about how the Government would “square the circle” of having elected chairs on the one hand and the minister’s commitment not to diminish the role of rectors on the other hand. Frankly, that still looks pretty circley to me. We now have a mix of legislating for what happens already with a potential arm-wrestle between chairs and rectors over whose democratic mandate is bigger.

Even on union and student representation, given the funding levers that are at ministers’ disposal and the direction in which the existing code of governance is going, it is not clear why legislation is seen as being essential.

The Minister for Learning, Science and Scotland’s Languages (Dr Alasdair Allan): Will Liam McArthur concede that, even under the bill, the roles of rectors and chairs in terms of their day-to-day functions are so distinctive that any confusion about their jobs is unlikely?

Liam McArthur: As I said, what we appear to have in the bill is a pre-selection process for candidates that is very much in line with what happens already. It is not clear how that will expand the pool of applicants, although I am fairly sure that students and, indeed, unions will be alive

to the opportunities there. In terms of the role of rectors, it is not clear to me how to settle the question who has the democratic mandate to do what in our universities.

The staff, students, management and stakeholders of the Royal Conservatoire of Scotland have all made clear their outright opposition to what is proposed. They have demanded, as others have mentioned, an exemption from the legislation, which the Glasgow School of Art, Scotland's Rural College and even the University of the Highlands and Islands might feel should apply to them as well.

All the evidence shows that, as Jim Eadie rightly indicated earlier, the best-performing universities worldwide are those that exercise the greatest responsible autonomy. They should be accountable and transparent and they should reflect the diversity of the communities that they serve. How that is best achieved, though, should not be second-guessed by ministers, using the blunt instrument of legislation. Previously, Stewart Maxwell described the bill as "thin"; the minister plans to make it thinner still. Given the complete absence of any evidence to justify the bill and the potential for it to harm rather than help our world-class universities, I respectfully suggest that it is time to make the bill vanish completely.

14:52

Joan McAlpine (South Scotland) (SNP): I start by declaring an interest in that my former partner and the father of my children is a former rector of the University of Glasgow.

I welcome the chance to speak in today's debate and I am proud of Scotland's reputation for providing accessible world-leading education. I support the bill's aim to make our institutions more effective, inclusive and transparent by creating a framework to strengthen the practice of governance in universities and other higher education institutions. It seems to me that the bill seeks to safeguard the autonomy of institutions while ensuring their accountability to the key stakeholders whom they serve—namely, their staff and students. I am pleased to note that the bill has the backing of the Scottish Trades Union Congress, the UCU and the student body NUS Scotland.

Although it is right that we also listen to the concerns of those at the top of our HE institutions, it is vital that we assert from the outset the point that self-regulation has been shown to be somewhat insufficient on many issues. I take this opportunity to highlight a fundamental aspect of accountability: the question of remuneration. I previously raised that issue when I was a member of the Education and Culture Committee in 2013

and we were taking evidence on the draft Scottish code for good higher education governance. At that time I asked the vice-convenor of the court of the University of Edinburgh—Professor Stuart Munro—whether it was right that a university principal was paid more than the Prime Minister, and he told us that he had "concerns" about having to cap the principal's salary at £227,000.

Professor Munro was one of three senior university figures to address the committee at that evidence session. He made the comments about the principal's salary after that group had caused controversy by suggesting that it was unnecessary to introduce legislation to cap tuition fees at £9,000 for rest-of-UK students. At that meeting, Professor Munro said that he did not think that he could recruit a principal on the same salary as the Prime Minister's. Perhaps that reflects his view of the Prime Minister; I do not know. He might well be right, but the point is that such things must be discussed in an accountable manner.

Introducing trade union members and students on to the boards will allow more discussion of how decisions on salaries are reached. The salary of £227,000 for the principal of the University of Edinburgh is not the highest salary: Scotland's Rural College has been mentioned: its principal's salary is £290,000, which many people will blink at.

Mary Scanlon (Highlands and Islands) (Con):

Many of our senior national health service managers and other people in councils and right across the public sector are paid more than the Prime Minister. Should we bring in legislation to make sure that that does not happen?

Joan McAlpine: Such decisions should be reached using democratic accountability. Maybe the amounts are correct, but the way in which they are decided on leaves a lot of people questioning them. The measures that the bill will put in place will allow university governing bodies to come to those decisions in a more democratic manner. I am not saying that the people who work at the top of universities and colleges should not be well paid: far from it. They make a vital contribution to the success of our universities.

I want to say a word about rectors. At the beginning of my speech, I declared an interest. I have watched closely the job of a working rector. We have seen the recent example of Mr Iain Macwhirter, the journalist, at the University of Edinburgh, which includes staff in electing the rector. Mr Macwhirter did a fantastic job in campaigning for staff and students on issues including fees.

Mr Patrick Kane, who was Lord Rector of the University of Glasgow in the 1990s, has recently written about his experiences as rector. When he

campaigned for the post, he did so on the basis of, for example, introducing crèches and more access for disabled people, which was quite revolutionary at the time. He and other working rectors have showed how important it is to hear other voices and have other influences.

Patrick Kane wrote recently that the bill contains the spirit of rectorship and the democratic nature of Scottish education going back many centuries, and that it avoids universities becoming “Knowledge plc” rather than being communities.

14:58

John Mason (Glasgow Shettleston) (SNP): I will speak mainly from the angle of the Finance Committee, which spent a fair bit of time looking at the bill and its financial memorandum, and came up with a fairly serious report as a result.

A number of points of a financial nature arose. First, there was the cost of the universities amending their governing instruments, which was not included in the financial memorandum; I refer to page 14 of our report. Secondly, there was the cost of recruiting a chair, on which a commitment was given to undertake further work; we welcomed that on page 16 of our report. There was also the time commitment, and therefore the costs, for a chair. There seemed to be quite a lot of disparity between the Government’s view of that time commitment and the view of the HEIs; that is referred to on page 17 of our report and, again, further work was promised on that.

However, the main concerns and focus for the Finance Committee were on two other areas—the potential loss of charitable status and the potential reclassification of HEIs as public sector bodies by the ONS. One of the main challenges for me and the Finance Committee was the question whether those financial concerns were real or whether they were a just a smokescreen and had been raised because people did not want there to be any interference or for the universities to have any accountability to wider society.

On the charity point, OSCR had responded by the time that the committee met, which seemed to offer the reassurance that there would not be a problem with charitable status. We concluded:

“The Committee notes that a number of concerns were raised in written evidence in relation to HEIs’ charitable status but is satisfied that these were addressed in OSCR’s submission to the lead committee.”

Given that the charitable status point seemed to have been overstated, the question for us was whether the ONS reclassification point had also been overstated. There was a lot of talk of ministerial control, but to me the control seemed to be in the wider sense, in that Government would be able to set out the structure. Of course, the

reality is that Governments set out the structures of and get involved in many organisations, be they commercial businesses, third sector organisations or whatever. That is a crucial difference between such Government involvement and ministers actually appointing Mr or Ms Jones to a university board.

The question of what the ONS thought was a difficult one for the committee, because the ONS does not give its opinion on something before it happens. Even asking the ONS for its opinion, as some suggested that we should do, could have raised the risk of reclassification by putting doubt in its mind. It would be like going to the police when one has been driving at 32mph and asking whether one has broken the speed limit.

There were also vague suggestions that the Government or the Parliament should take advice from hypothetical experts on reclassification. Liz Smith mentioned that today, although she would not take an intervention from me on that point.

Liz Smith: Will the member take an intervention?

John Mason: Let me finish. It also became apparent that even the ONS considered the Scottish Government to be one of the main experts in the field. At the time, no one could suggest to the committee an expert to whom we should speak. Liz Smith will tell us who the expert is.

Liz Smith: I will be very happy to do that, but first I praise John Mason for his assiduous scrutiny in the Finance Committee, to which I listened carefully. When it comes to the debate that he has just outlined and the challenges of who is right and who is not right, would it not have been helpful if the Government could have come forward with evidence that backed up or contradicted the Anderson Strathern evidence on university reclassification? Does he accept that?

John Mason: That is the point that I was trying to make. I have not heard who these great experts in the field are, who know more about the issue than the Scottish Government does. The bill team was good at explaining the issue and we took detailed evidence on how much study had taken place. It had met the ONS frequently, which is unusual—I suspect that not many Joe Bloggs meet the ONS regularly. It went through how the ONS thinks and how it looks at things. It seems to me that the Government has a pretty good understanding of the issue. The point is that the Government does not want reclassification. It has been perfectly clear about that, as has our committee and everyone else.

Another key point that came up was that if reclassification was proposed, it would not have immediate effect. There would be an opportunity

to look at the proposal and change how things were being done. The committee noted, in its conclusion on this topic on pages 9 and 10 of its report, the financial concerns regarding reclassification and the Government's clear desire not to see reclassification happen.

At paragraph 47 of its report, the committee made the point that primary legislation is seen to be safer than legislating by statutory instrument, because it gives less scope to ministers. I am happy to welcome the minister's proposal. On behalf of the Delegated Powers and Law Reform Committee, on which I also sit, I say that we are happy that more is in primary legislation and less will be in secondary legislation.

15:04

Hanzala Malik (Glasgow) (Lab): It is an honour to speak in the debate on the Higher Education Governance (Scotland) Bill. There is widespread agreement in the chamber and outside it that Scotland's universities punch above their weight. They make a major contribution to our economy directly and indirectly, through the human capital that they help to develop.

I believe that every organisation, however successful, needs to review and reform to ensure that it is fit for purpose. Organisations in the higher education sector are no different. We need to get a balance between reforms that increase transparency and accountability, and the maintaining of autonomy. Now that the Scottish Government's proposed changes at stage 2 will remove the ministerial powers and, therefore, the threat of ONS reclassification of universities that would lead to the loss of funding routes, I do not feel that the Higher Education Governance (Scotland) Bill compromises academic autonomy.

With regard to financial decisions, higher education institutions that receive higher amounts of public funds should be open to greater financial accountability. Their lack of accountability has been symbolised by reports of high levels of pay and bonuses for principals, while junior staff suffer low pay and insecurity as a result of zero-hours contracts. Zero-hours contracts are the scourge of our industry just now. Education in particular suffers very badly in that area because of its importance not only to our country and to our academic teaching staff, but, more important, to the future students who will play the role of running our country and taking us forward.

I do not believe that the voluntary introduction of a governance review will automatically provide the required transparency and accountability. As each university is different, we should not assume that one size fits all. We need reforms that provide basic and clear governance structures that have

the means to balance and correct themselves. The election of chairs could probably help to provide checks and balances, as would greater diversity on ruling bodies. I welcome the Government's clarification of the process of election of chairs and its preservation of the post of rector for our older institutions.

As with any stage 1 debate, we can agree on general principles, but the details are important. There is still more clarification and tidying up to be done before we can be clear that the Higher Education Governance (Scotland) Bill will deliver the desired improvements in accountability.

Many of us have felt, particularly since the Government first interfered—if I can use that phrase—in the education sector, that many principals and boards had been gagged. They had been put in a position where they could not speak freely. They felt trapped, and they felt that they were unable to speak up about the realities of the conditions that faced them. The fact that the powers of hiring and firing lay with the minister meant that the universities, in particular, were in danger of losing the possibility of some very highly educated academics joining them, because they felt insecure about what was happening.

However, the new Government proposals are very welcome. We are going in the right direction, although a lot of work is still to be done. We must ensure that we are in a position to demonstrate to our universities that we will take their interests to heart and deliver a workable programme for them so that they are able to be transparent and to be more accountable than they are now.

15:09

Colin Beattie (Midlothian North and Musselburgh) (SNP): The SNP's continuous commitment to higher education has proven to be extremely effective in advancing Scotland's students and society as a whole. For example, in the past four years the Scottish Government has invested more than £4 billion in the higher education sector. That, in part, has resulted in Scotland's students having the lowest average student loan debt in the United Kingdom, which ensures that university education is based on the ability to learn rather than the ability to pay.

The Scottish Government's commitment to higher education has strengthened the reputation of our universities. Government funding has helped to sustain Scotland's position of having five universities in the top 200 in the world—the University of Edinburgh is number 24. In academic research, Scotland's universities are outperforming those in the rest of the United Kingdom and competing globally at an extremely high level.

Given that taxpayers invest £1 billion every year in higher education, and given that enrolment and acceptance of young Scottish adults in our universities is on the rise, with university applications up 50 per cent since 2006, the SNP expects the highest standards of governance in our institutions.

Although the previous agenda has proved successful in many ways, there is more that we can do for our youth, through the Higher Education Governance (Scotland) Bill. The Scottish code of good higher education governance has failed to address the need for a modern, democratic culture in governing bodies, transparency in who makes decisions and how, and fair representation and diversity in governance. The SNP argues that further legislation is required, to provide for places on governing bodies for staff and student unions and to support the principle of elected chairs.

The bill will give students and staff a genuine, democratic say in the leadership of universities. It will provide the transparency that our higher education system requires if it is to maintain its global reputation and its effectiveness for our youth.

Professor von Prondzynski's "Report of the Review of Higher Education Governance in Scotland", which was published in 2012, made recommendations about how to strengthen Scotland's higher education system. As principal and vice-chancellor of Robert Gordon University in Aberdeen, Professor von Prondzynski has a considerable understanding of the needs of students and faculty in higher education institutions. He began his review by addressing the necessity for autonomy, democracy and transparency in higher education, all of which I support.

Liam McArthur: Colin Beattie will be aware that there are questions about the evidence base on which Professor von Prondzynski drew and about the international comparators to which we aspire. Neither Professor von Prondzynski nor the minister has been able to point to those international comparators and give us confidence that what we aspire to do has been working in practice—and working better than the approach that is currently in place.

Colin Beattie: Professor von Prondzynski's reputation in the sphere of higher education is pretty much undoubted and I accept his approach and his review.

The bill used Professor von Prondzynski's review as an outline and has the goal of modernising and strengthening governance, to instil principles of democracy and accountability in the higher education sector.

First, a greater democratic culture in governing bodies will be emphasised, by giving staff and students the right to elect a single voice to advocate for their interests on the governing body. That feature complements the democratic approach that the bill proposes. Secondly, greater transparency in decision making will be ensured through greater involvement of stakeholders across the board.

Finally, the bill will establish fair representation and diversity in governing bodies. According to research that NUS Scotland conducted in 2014, university courts are overwhelmingly dominated by men. The code of good governance recommended change in that regard, but there is no evidence that such changes have been made. Professor von Prondzynski's report made clear that quotas should be utilised to enhance diversity, given that women make up the majority of our university population but are exceedingly underrepresented in governing bodies.

Despite the benefits that the bill will bring, many people have criticised it, citing the potential for reclassification and other governance issues that might arise. Some critics go as far as to suggest that the bill will remove rectors and sever the historic ties between students and their primary advocate by eliminating the rector's right to chair court. Autonomy in Scotland's higher education institutions is a central factor in the success of our universities and should be explicit in the bill.

The bill's principal objective is to establish a high-level framework in Scottish universities that is more modern, inclusive and transparent. Such an approach is in line with the SNP's commitment to a fairer Scotland and it is right to take it.

15:15

Mary Scanlon (Highlands and Islands) (Con): Like you, Presiding Officer, since 1999 I have scrutinised many bills that have gone through the Parliament on issues such as free personal care, mental health, antisocial behaviour and the Office of the Scottish Charity Regulator, and we are now looking at the attainment gap in schools. Although, across the parties, members have always had differing views on how to address the problems, at least we have all known what the problems were. However, the bill that we are debating today is a solution looking for a problem. It is not just me saying that; that is acknowledged by the principal and vice-chancellor of the University of Edinburgh, who has stated:

"We do not think that there has been any compelling explanation of what the problem is that needs to be fixed here."

Of course, our universities should uphold the highest standards of accountability, transparency

and inclusion in their governance, which at all times should be “modern, inclusive and accountable”. If the Scottish universities were the worst offenders on those issues and principles, and if nothing was happening to address the deficit, I could and probably would support legislation. However, the code of governance that was introduced in the summer of 2013, which is due to be reviewed this year, has brought changes. According to a Universities Scotland briefing paper, the code has delivered 350 positive changes to enhance higher education governance and it has been adopted by the Scottish funding council as encapsulating the standards of good higher education governance.

The following are examples of that progress. Every Scottish higher education institution has staff and students as full members of court, with 72 per cent of institutions having two or more student governors and 94 per cent having two or more staff governors. Despite what was said by Colin Beattie, for whom I have great respect as I sit on two committees with him, on the issue of gender balance, eight out of the past 10 appointments to the role of chair have been women, which brings the percentage of women chairs to 44 per cent. Many organisations—including the Scottish Parliament—would be very proud to have a 44 per cent representation of women, so I do not think that we should be too critical of that. Even the cabinet secretary has acknowledged:

“The premise that I am starting from is not the premise that there is a deficit. I am not for a minute saying that governance in our university sector is poor.”—[*Official Report, Education and Culture Committee*, 10 November 2015; c 4.]

which gives rise to the question: why are we here, and why do we have the legislation?

The Education and Culture Committee’s report is 27 pages long compared to a bill of 10 pages, but that was necessary because of the lack of clarity and reasoning on so many issues. There are 17 separate issues on which the committee reasonably sought more information. I read the Scottish Government’s response three times—I think that it is trying to be helpful, but I am not sure—and the promise of further amendments to address the concerns is, in my book, a worrying feature given what we have seen so far.

Today, the SNP back benchers would have been wise to listen to the SNP convener of the committee instead of being fed the party line. I commend Jim Eadie and Sandra White, who have obviously talked to the University of Edinburgh and the Royal Conservatoire of Scotland and are listening to the reasonable concerns of those higher education institutions.

Jim Eadie: Will the member take an intervention?

Mary Scanlon: I am sorry, but I have less than 30 seconds left.

Stewart Maxwell has to be commended for steering the committee this far. His speech was a fair reflection of the cross-party concerns about the bill. Chic Brodie has to be commended, too, because his scrutiny of the bill has been first class. In raising concerns on behalf of the committee today, Stewart Maxwell acknowledged that the cabinet secretary had not provided specific examples of deficiencies in the sector, that much of the detail of the bill is still under consideration and that amendments are needed.

It is quite incredible that every higher education institution in Scotland is against the bill. We should be listening more carefully to what they are saying.

15:20

Mark Griffin (Central Scotland) (Lab): As Iain Gray set out at the start of the debate, Labour supports the general principles of the bill, which has the laudable aim of ensuring that the structure of our universities’ governance continues to develop and adapt in order to maintain our first-class university provision, in which we should all take pride.

From the start of this process, we have offered support for the inclusion of trade union reps and student reps on governing bodies as part of the democratisation of higher education institutions’ governing bodies. That support has been echoed by all my Labour colleagues who have spoken in the debate.

All parties today have recognised the importance of the higher education sector to Scotland’s economy and our international standing, so we should listen to the sector’s views and respond to its concerns.

The value that we place on our higher education system in Scotland is part of our cultural DNA. We extol the virtues of our historic and new universities and talk with great pride about their contribution to the world, not just in educating our own young people but in undertaking world-leading research and dynamic entrepreneurship that is recognised across the globe. We must view the bill in that context—a context that has seen our universities continue to succeed in an increasingly competitive international climate.

We must be cautious that in attempting to improve the way that our esteemed institutions operate we avoid diminishing or restricting the freedom that has contributed to that success. Scottish higher education has a long history of having staff and students at the heart of its

mechanisms of governance. Staff and students are full members of a university's governing body—the court—at every institution. According to Universities Scotland, 94 per cent of institutions have two or more staff members of court and 72 per cent have two or more student members of court. We all recognise that we should seek to build on that record, rather than suggest that there is a problem with university governance that requires a top-down overhaul.

A significant number of unintended consequences and unanswered questions were identified in respect of the bill, many of which were highlighted through the committee's scrutiny and the evidence with which we were provided.

In committee, I said that ONS reclassification was quickly becoming a key issue for the Scottish Government, which was understandable, given its potential impact on the sector. It is rare in politics these days for someone to take responsibility and stand up and say that they have got it wrong, so I commend the cabinet secretary for doing just that today.

Universities Scotland suggested that if the ONS was to reclassify Scotland's universities as public bodies, the sector would stand to lose competitively-won income from charities and philanthropy and income earned by the universities through entrepreneurial activity and that institutions' capacity to borrow would be reduced or removed. That could have cost the sector well in excess of £400 million per year at a conservative estimate.

I note from the Scottish Government's response that it is minded to lodge amendments at stage 2 to remove sections 8 and 13 of the bill. In addition, the Government is minded to lodge amendments that would reduce or remove the need for regulation-making powers in sections 1 and 2 of the bill. It is fundamental to the sector that the Scottish Government takes that action. The consequences of it not doing so are stark.

Removing sections 8 and 13 of the bill would alleviate another concern that was raised in committee and by the sector more widely. The fact that the Scottish Government had to state explicitly that it did not want to advance ministerial control over universities is an indication of the worry and concern in the sector about the direction that the bill was taking. Our universities must remain independent and autonomous bodies, free from ministerial pressure and control.

I am also pleased about the amendment that is scheduled to be lodged on the removal of the limit on the academic boards. A number of speakers have talked about the situations in universities throughout Scotland, particularly the University of Edinburgh.

Liz Smith: Why does Mark Griffin feel that legislation is necessary on academic boards?

Mark Griffin: I do not feel that the cap of 120 members was necessary. I am glad that the Government proposes to remove that measure. However, we should still have the option of legislating for the composition of student membership of academic boards. We would support that.

We offer our conditional support for the bill at this stage. The amendments that the Scottish Government has suggested that it will lodge appear at first glance to address the issues that were raised in committee. The cabinet secretary is to be commended for the changes that she has made after listening to the committee, the sector and members. The repercussions of the Government getting it wrong on higher education governance are so serious that we will watch carefully and scrutinise every amendment at stage 2. We will ensure that our world-class universities are supported with the freedom and framework to continue to provide a first-class education and the ground-breaking research for which they are well known.

15:27

Angela Constance: I thank members for their contributions to the debate. I am glad that, in considered tones, Mark Griffin and Cara Hilton, although outlining their views on the bill and how it could be improved further, acknowledged that the Government had listened and worked with a range of stakeholders.

Cara Hilton spoke about the importance of improving the representation of women within governing bodies. Mary Scanlon pointed to the progress that has recently been made. It is important that we maintain the progress that has been made in a wide range of areas of governance following the von Prondzynski review and the introduction of the code of good governance.

The principles of the bill are consistent with where modern Scotland sits. Stewart Maxwell and others recognised that the fundamental question is how the bill helps to make a good system better. In the modern day, most people accept that the greater participation of a greater diversity of people who have a shared interest in improving the institution and acting in the interests of staff and students improves governance.

Participation and diversity improve governance, and the Government has set participation as one of its three key priorities. We have set ourselves the challenge of finding ways of handing decision-making powers back to communities.

Liz Smith: Will the cabinet secretary give way?

Angela Constance: Not just now.

Therefore, the bill is very much aligned with our commitment to a fairer, more inclusive Scotland that better reflects the diversity of our society and where everyone gets to have their say. The bill aims to reflect those priorities and values by strengthening community—in this case, staff and students—participation in decision making. At its heart, the bill seeks to enable every voice on campus to be heard, and I hope that that is a principle that we can all endorse.

Sandra White: The cabinet secretary mentioned staff and students being involved in decision making. That already happens at the Royal Conservatoire. I hope that she will reflect on that and perhaps answer the questions that Stewart Maxwell asked about the Royal Conservatoire. Can she give us an update on the position with the conservatoire and the Glasgow School of Art?

Angela Constance: The reality is that the vast majority of institutions in Scotland already have five of the statutory members that are required. If the bill proceeds from stage 1 to stage 2 and is amended in the way that is proposed, it will specify that there must be seven statutory members on a board. Most institutions, including the Royal Conservatoire, are well on their way to achieving that.

I want to say a little about ONS reclassification, although it is an issue on which we have been around the houses in a variety of forums. I want to strike a consensual note. John Mason helpfully identified that it is an issue of statistical classification rather than, say, a legal issue. Like John Mason, Liz Smith and Universities Scotland—although I admit that they see things from a different side of the mountain—both acknowledge that, in many ways, this is a matter of interpretation and difference of opinion. I and the Government have our opinion.

In its briefing, Universities Scotland says that it believes that the only complete way to address the risk of reclassification is to remove sections 8 and 13 from the bill. I have made my intentions on the matter crystal clear, although there has never been anything in the bill that would advance ministerial control.

Liz Smith: I made it very clear that we are delighted that those two sections, which should never have been in the bill in the first place, are to be removed, but why is it that the Government can seek information and evidence about ONS reclassification for other projects in Scotland, such as the Aberdeen western peripheral route—I think that it sought such evidence on four different

occasions—yet we have not had definitive information in this case?

Angela Constance: I beg to differ on that point. I have written to the respective committees twice on this matter and have identified that not just education officials but officials across Government have looked very closely at the European system of accounts 2010 and the indicators of Government control and, in our view, there has never been anything in the bill that increased the risk of ONS reclassification, because there has never been anything in the bill that required autonomous institutions to ask for Government permission to conduct their day-to-day business.

I turn to the issue of elected rectors, which Stewart Maxwell, Chic Brodie, Jim Eadie and Liam McArthur all raised. I emphasise that the Government is not altering rectors' existing statutory rights. Rectors have the right to chair court, should they choose to exercise it. As things stand, it is up to the ancient universities how they do detail the role of senior governor, who will now be elected, with that of an elected rector. It is extremely important to remember that the role of rector and that of an elected chair, who is otherwise known as the senior governor, are very distinct. Rectors are part of the democratic tradition of our ancient universities. They have an ambassadorial role, they raise the profile of the sector and they have the role of representing staff and students. The role of rector is a very influential one. The role of elected chair or senior governor or vice-convenor is to oversee governance. They are steeped in day-to-day governance. Crucially, they appraise the principal's performance, and they often serve on many of the working groups and sub-committees. Theirs is a very powerful role, so it is correct that they are elected in a transparent and modern process.

Liam McArthur: Will the cabinet secretary take an intervention?

Angela Constance: No. I am running out of time.

Elected chairs would allow all staff and students to choose the candidate who can lead the entire campus community in a common purpose, but they must also be equipped to perform the duties associated with a modern Scottish higher education institution. For that reason, there must be appropriate candidate selection.

I note what has been said about the link between the chair and the institution's governing body. Other members have raised that issue. However, the selection phase should ensure that every electoral candidate has the necessary leadership skills and qualities. I very much note the representations and views of NUS Scotland and the UCU, which say that that should be about

ensuring capacity and skills, and it should not be used as a bar on suitable candidates.

The convener of the committee, Stewart Maxwell, raised a number of other issues. As time is short, I will write to him.

We continue to work through the issues around academic freedom. We removed the requirement to have alumni and graduate members on governing bodies. That was very much at the request of post-1992 institutions.

On the issue of evidence, the von Prondzynski review took evidence from a range of stakeholders at the United Kingdom and European levels and from Scotland.

With the best will in the world, I have to accept that, on some occasions, nothing will satisfy those who are determined to oppose the bill. Liam McArthur said that the Government is legislating because we can. I would not have invested the time, energy and engagement that are acknowledged in the briefings from the UCU, the NUS and Universities Scotland if I was merely going to rely on the size of my parliamentary group in comparison with his parliamentary group.

I hope that members can move forward and support this very important bill at stage 1.

Scottish Fiscal Commission Bill: Stage 1

The Deputy Presiding Officer (John Scott):

The next item of business is a debate on motion S4M-15303, in the name of John Swinney, on the Scottish Fiscal Commission Bill.

15:37

The Minister for Parliamentary Business (Joe FitzPatrick): The Deputy First Minister is unable to participate in the debate, as he is attending a family funeral. Therefore, I will be representing the Scottish Government in the debate.

The Scottish Fiscal Commission Bill will secure a permanent role for the commission in strengthening the operation of Scotland's devolved fiscal framework. The bill delivers a long-standing commitment from the Government to give the Scottish Fiscal Commission a basis in statute and further demonstrates our commitment to fiscal discipline.

The non-statutory commission has been in operation since June 2014, with a core function of scrutinising and reporting on the Scottish Government's forecasts of tax revenues that support the Scottish budget. The bill provides that that should remain the core function of the statutory commission. I will return to that issue later.

The commission's core purpose should be to maximise the integrity of the forecasts and estimates that are prepared by the Scottish ministers to underpin the Scottish budget. By bringing independent scrutiny to bear on those forecasts, the commission provides Parliament and the public with independent assurances of the robustness of revenue and borrowing estimates, which, together with the block grant, determine the total resources that are available to ministers to deploy in the budget. As such, the commission's work is central to the integrity of the Scottish budget process.

The bill is a culmination of years of work, which included inquiries that were conducted by the Finance Committee and a Government consultation. We are grateful to all those who have taken the time to contribute evidence, which has helped to shape the development and refinement of our policy. In particular, I thank the committee and all those who provided evidence at stage 1 for their detailed consideration of the bill and the underlying policy issues.

The committee made a number of recommendations in its stage 1 report, and the Deputy First Minister has provided a detailed written response to it on the legislative and

Government policy issues that it raised. The committee also made a number of recommendations that pertain to the operation of the commission and how it discharges its functions. Those are matters for the commission, over which the Government rightly has no jurisdiction. My remarks will therefore focus on the issues for which the Scottish Government has responsibility.

The Scottish Government remains of the view that Scottish ministers should be responsible for preparing official tax revenue forecasts. The position that is set out in the bill is that the commission will independently assess and report on those forecasts, maximise the transparency of the forecasting process and ensure that Scottish ministers are properly and democratically accountable to Parliament for those forecasts. The Government believes that the bill, as introduced, reflects the most effective solution in support of the responsible exercise of the modest tax powers devolved to this Parliament.

Under current arrangements, a detailed account of the Scottish Government's forecasting approach, the findings of an independent evaluation of that approach and the changes that the Government has made in response to those findings are all publicly available. The comprehensive reports that were published by the Scottish Government and the Scottish Fiscal Commission alongside the 2016-17 draft budget are evidence of that. I understand that the committee will have finished its deliberations prior to those documents being available.

The commission rightly challenges the Government to ensure that our forecasting methodologies are as robust as they can be. Any observer of the budget process or reader of the Scottish Fiscal Commission's report on our forecasts would see that that is exactly what the commission does. We are committed to acting on the commission's recommendations and Parliament can hold us to account for our response to the issues that the commission raises.

The independent checking function would be lost if the commission were to prepare official forecasts. There would be no formal institutional arrangements to provide timely assurances of the reasonableness of each forecast produced by the commission. It is not clear how Parliament, the Government or the public would be assured about the robustness of forecasts that are critical to determining the level of resource that is available for allocation in the Scottish budget and to the responsible management of Scotland's public finances.

The committee's recommendation would lead to duplication of effort and resources—a point recognised by the Institute of Chartered

Accountants of Scotland—as the Scottish Government would need to retain in-house forecasting expertise. The resources required by the commission would increase, without any commensurate decrease in the forecasting resource required within the Scottish Government. Our policy position is supported by international evidence, including written evidence that the International Monetary Fund submitted to the committee at stage 1.

Jackie Baillie (Dumbarton) (Lab): I am sure that the minister will be aware of the Organisation for Economic Co-operation and Development principles that apply to financial institutions of this nature. It strikes me that countries that do forecasting outwith Government manage well. Would the minister give us an example of one that does not work, which would support the Government's position?

Joe FitzPatrick: That brings me to my next point. The Scottish Parliament information centre briefing on the bill demonstrates that, of 23 independent fiscal institutions in OECD countries, only three have a role in preparing official forecasts. The remaining 20 assess official forecasts. The United Kingdom Office for Budget Responsibility is clearly in the minority among fiscal institutions throughout the world in producing official forecasts.

John Mason (Glasgow Shettleston) (SNP): We heard yesterday at the Finance Committee that, although the OBR speaks to the Department for Work and Pensions and HM Revenue and Customs, they are not allowed to share information. Does the minister share my surprise about that very disjointed process at the UK level?

Joe FitzPatrick: Everyone across the UK should thank the Finance Committee for the light that it has shone on the way in which the OBR deliberates. There are some good quotes from HMRC about how its relationship with the OBR is very similar to its previous relationship. What is clear is that there is a lack of transparency in that process south of the border. Of course, there is no question but that it is possible to arrange the process that way round, but the evidence that is clearly set out in the SPICe document is that countries whose independent fiscal institution produces the official fiscal forecast are very much in the minority.

Nothing in the bill prohibits the commission producing alternative forecasts. It is solely for the commission to decide whether it considers that the production of such forecasts would be desirable to support its ability to assess the reasonableness of the Government's forecasts, and that is the way it should be. I look forward to hearing members' points on that matter.

I see that time has flown.

The Scottish Government recognises that it is critical to the effectiveness and credibility of the commission that it is structurally, operationally and visibly independent of Government. We have been explicit in the provisions in the bill that the commission will not be subject to the direction or control of any member of the Scottish Government. However, in his response to the stage 1 report, the Deputy First Minister undertook to take further action to reassure Parliament that he is doing all that he can to promote the independence of the commission. He will consider legislative and administrative changes to strengthen the transparency of the operation of the relationship and interactions between the Government and the commission.

The Government welcomes the committee's support for the appointment process that is provided for in the bill. The Deputy First Minister has already intimated to the committee that the Government will bring forward amendments to the bill at stage 2 to give effect to recommendations to include term lengths in the bill and to allow members to serve two consecutive terms of appointment of no longer than five years each, as recommended by the committee.

The committee raised the issue of the commission's remit. We recognise that the process of devolution is on-going, with the Scotland Bill going through Westminster and an associated fiscal framework being negotiated. That is why we have provided that the functions of the commission may be expanded in future by regulations, following consultation with the commission and with the express approval of Parliament.

The committee talked about two areas in particular. It suggested that the commission be given the functions of assessing adherence to fiscal rules and assessing the long-term sustainability of devolved public finances. Those issues would most appropriately be revisited following the devolution of further powers. However, it is very much the view of the Government that assessment of the sustainability of public finances is primarily a role for elected members of the Scottish Parliament, who should hold ministers directly to account for the robustness of our financial judgments.

Taken together, the provisions in the bill and the resourcing proposals in the financial memorandum will create a statutory commission that is well equipped to assure the robustness of the tax forecasts that underpin the Scottish budget.

The Government remains of the view that our approach—whereby the commission independently assesses and reviews official

forecasts that are prepared by Scottish ministers—maximises transparency and delivers public value by offering the strongest safeguard over the robustness of the forecasts that underpin the Scottish budget. We are not persuaded by the committee's case, but we will listen to all the points that are made today. I look forward to hearing members' views on those and other issues.

I move,

That the Parliament agrees to the general principles of the Scottish Fiscal Commission Bill.

15:48

Kenneth Gibson (Cunninghame North) (SNP): I am pleased to speak in this debate on the Scottish Fiscal Commission Bill, and I want to highlight some key areas that the Finance Committee considered during its scrutiny of the stage 1 evidence.

The committee has taken a keen interest in the development of the Scottish Fiscal Commission for several years now and published a report on proposals for its creation in February 2014. The committee welcomes the Scottish Government's willingness to engage with the proposals that we put forward and we support the general principles of the bill. However, based on the extensive evidence that we received—including an excellent piece of research that we commissioned from Ian Lienert, an independent consultant in public financial management—there are some fundamental issues on which we disagree with the Government. The committee also learned a lot from member visits to the Swedish and Irish independent fiscal bodies, and I want to thank everyone who supported us in our important work on the issue.

The most common theme to emerge in evidence from across the board was the importance of the commission's independence from Government—not only that it is independent but that it is seen to be so; the minister alluded to that just a few moments ago. The current non-statutory commission's approach has been described as

“one of enquiry and challenge, followed by response, followed by further enquiry and suggested improvements.”

The bill seeks to put that role on a statutory basis and to enable

“the Commission to exert significant influence over the forecasts which underpin the Scottish Draft Budget”.

In evidence, witnesses spoke of the trade-off between exerting influence on forecasts and providing an independent assessment of them. That, in the eyes of the committee, was perhaps the most significant issue to arise during our scrutiny of the bill at stage 1.

The International Monetary Fund, for example, noted that, although early intervention would give the SFC greater influence over the forecasts in the short term, it would

“involve some degree of ownership, which would reduce its independence over the medium term.”

According to Ian Lienert, that position was undesirable as it could change the commission from being an independent assessor of the forecasts to being an adviser to the Government. Questions were also raised in evidence about the timing of the publication of the SFC’s report on the draft budget. The bill requires it to be published on the same day as the draft budget, but concerns were raised that that too could be seen as undermining the SFC’s independence.

In order to address such concerns, the committee recommended that a formal memorandum of understanding between the commission and the Government, setting out agreed processes and timings, should be published. I am pleased that the Government has agreed to consider amending the bill at stage 2 to require both parties to agree and publish such a protocol.

The majority of witnesses from whom we heard expressed their view that the commission should produce its own forecasts, with some suggesting that they should constitute the official ones and others that they should be produced purely for comparative purposes. Yet others were of the view that having more than one set of forecasts would lead to a duplication of effort and add little value to the annual budget process, as the minister mentioned.

The model that is proposed in the bill depends on a high level of behind-the-scenes interaction between the commission and the Government. Indeed, the SFC’s report on the draft budget helpfully provides minutes of the challenge meetings that took place between the commission and Government staff prior to its publication. Those minutes show that provisional forecasts for residential land and buildings transaction tax were considered in a joint meeting on 27 August before an updated provisional forecast was considered on 23 September. Further provisional forecasts were then considered on 20 November. The minutes from that meeting confirm that the Government revised its forecasts

“following comments made by the Commission in the August 27th challenge meeting.”

The committee believes that the commission needs to demonstrate how its role in exerting significant influence on the Scottish Government’s forecasts can be combined with its role as an independent assessor. In particular, there must be greater clarity regarding how the commission

works in practice. For example, the SFC told us that its role was to provide a challenge function early in the process and that it does not look at numbers and outputs. It is not clear how that fits with the SFC considering and commenting on a series of provisional forecasts for residential land and buildings transaction tax between August and November.

The Deputy First Minister also explained to the committee that he would reach agreement with the commission on the forecast methodology prior to the production of the official forecasts. The commission told us that it is up to the Scottish Government whether it takes on board its suggestions or not, and at the end of the day it is the Government’s choice. It is not clear, therefore, whether the commission is being asked to agree the provisional forecasts and the methodology in advance of the production of the official forecasts.

The committee agrees with the OECD that there is a need for full transparency in this work. At present, no information is provided on the extent to which the forecasts were changed following the challenge meetings. The committee recognises that there needs to be some interaction between the commission and the Scottish Government. However, in the other models that we looked at, that is done primarily to share technical information, not to seek agreement on methods or to consider provisional forecasts. It is not clear to the committee how that role can be combined with the commission’s role as an independent assessor. The committee therefore recommends that, to ensure that the commission is seen to be independent, it should produce the official forecasts.

The committee believes that giving the commission ownership of the forecasts in this way addresses many of the concerns raised in relation to the perception of independence. If the commission does not produce the official forecasts, those concerns could remain, even though the committee accepts that the SFC is independent of Government.

The IMF raised concerns about the role of the commission in influencing the forecasts prior to publication. Others disagree. An argument against the proposal, which we have already heard, is that another independent body would have to scrutinise the commission’s official forecasts. It is not clear why, given that the committee heard that the most significant reason for establishing any fiscal commission is to provide reassurance that the forecasts will not be subject to any optimism bias. Full transparency in how the commission arrives at the forecasts is needed, and the Parliament and the Finance Committee in particular will have a role in holding it to account if the forecasts are off the mark.

I have been unable to deal with many of the report's sections in the short time available; I hope that colleagues will cover some of them in the rest of the debate. In particular, the committee recommends that the bill should be amended to widen the commission's functions to include assessing the Government's performance against its fiscal rules and an assessment of the long-term sustainability of the public finances. I look forward to hearing colleagues' view on that and other issues in our report as the debate progresses.

15:55

Jackie Baillie (Dumbarton) (Lab): I am grateful for the opportunity to speak in the debate on the Scottish Fiscal Commission, and commend the Finance Committee, which I have recently joined, the clerks and SPICE for all their work.

About one year ago, Scottish Labour set out its plans for and thinking on a Scottish office of budget responsibility: a truly independent body, with teeth, to ensure that we have greater transparency and scrutiny of Scotland's public finances. The Finance Committee undertook a substantial inquiry, which has helped thinking in this area. I commend Kenny Gibson's speech to the chamber. I am sure that he will not hear me say that that often, but I genuinely mean it.

I know that I keep saying this, but it is an exciting time in Scottish politics. We have substantial new powers coming over taxation and welfare, first from the Scotland Act 2012 and now from the Smith commission, whose recommendations are contained in the Scotland Bill 2015. No longer will we just spend what someone gives us, but we are charged with raising that spend. That brings considerable new responsibility. Taking away from ministers responsibility for being honest with the Scottish people about what the economy's future holds and placing it in the hands of experts free of political manipulation is the right thing to do. That applies to Governments of all colours.

With the new powers coming, we need to know that a watchdog is holding ministers to account. The need for independent, reliable and impartial economic forecasting and analysis has never been more important.

John Mason: I am interested in the member's use of the word "watchdog". A watchdog does not do the work itself; rather, it watches someone else doing it. Does she mean to use the word "watchdog"? Does she not think that there would be a cost involved if we were to have both the Government and the SFC doing the forecasting?

Jackie Baillie: It sounded as though that was Mr Mason's conversion to the commission doing

the forecasting. If that is so, I very much welcome that.

I will look at the context today, because that is important. I heard on the radio this morning that, for the first time in more than a decade, oil is below \$30 a barrel, with all the associated negative consequences for our economy, as demonstrated by the gross domestic product figures that were released yesterday. Growth is effectively flat. We are increasingly diverging from the UK, whose growth is better than ours.

Of course, only 18 months ago the Scottish Government's *Oil and Gas Analytical Bulletin* estimated oil at \$113 a barrel. Perhaps we might not have foreseen what was to come, but an independent body that does our forecasting is likely to enjoy much more confidence than the Government has.

When we called for a Scottish OBR, the existing Fiscal Commission had a limited remit. It had no role in producing forecasts, it was underresourced and the finance secretary appointed all three members to serve on it—indeed, two served on the Council of Economic Advisers. However, one cannot be an adviser and provide independent scrutiny at the same time.

I am pleased to say that much of that position has changed and will change further. I welcome the bill to give the Scottish Fiscal Commission a statutory footing. The Finance Committee's report gives a considered view on where the bill needs to be strengthened, and I would urge the Government to listen.

I will touch on two areas. First is the question of independence; second is the issue of who should do the forecasting.

Independence from Government is essential for the Fiscal Commission if it is to have any credibility, yet it will interact regularly with Government officials—

Chic Brodie (South Scotland) (SNP): Will the member take an intervention?

Jackie Baillie: Let me make some progress.

The commission will interact regularly with Government officials and ministers in order to do its job. Witnesses who gave evidence to the committee stressed that the way to overcome any perception of bias is to be completely open and transparent. Discussions should be published, disputes should be in the public domain and outcomes should be shared. Where the commission and the Government disagree, we should know about it, and we should know what is being done to resolve the disagreement.

Joe FitzPatrick: Has Jackie Baillie read the Fiscal Commission's report on the draft budget 2016-17?

Jackie Baillie: Indeed I have, and if the minister had read the previous report he would know that the commission keeps asking for information about behavioural forecasting in relation to LBTT and has yet to receive that information. I invite him to read last year's report and this year's report, and then come to a conclusion about what is going on.

Forecasting is not an exact science—I wish that it were—so there will be differences in approach, but we should not be afraid to test them to arrive at the best. Governance arrangements also matter for the perceived independence of the Fiscal Commission, so the mechanism for appointment needs to command confidence. There must never be a circumstance in which a commissioner acts as an adviser to the Government, as that would conflict directly with the commissioner's role as scrutineer. That needs to be made crystal clear.

Forecasting is not separate from the discussion about independence. The Finance Committee took a considerable volume of evidence on that point, both in its original work on Scotland's fiscal framework and in its scrutiny of the bill. Many witnesses expressed a clear wish that the commission should undertake forecasting. There was a strong level of support for that among experts in the field, including from many notable economists and the Royal Society of Edinburgh.

Joe FitzPatrick: Will the member take an intervention?

Jackie Baillie: No—I really am running out of time.

We—including the minister—would be wise to listen to the views of those experts. They believe that the Scottish Fiscal Commission should be able to develop its own framework of analysis, data sources and methodology and to originate its own independent forecasts. The Finance Committee agrees, but regrettably the Scottish Government does not yet agree. I respectfully ask the Government to think again.

Frankly, the question of who challenges the commission is complete nonsense. Parliament, Government and external experts will all fulfil that role, so I respectfully ask the Government to think again. When we look at the OECD's recommended principles for financial institutions and at examples around the world, we see that the Scottish Government is much too limited in its approach to the Fiscal Commission. We should seek to be the best.

Scotland is on the verge of gaining substantial new powers over taxation and welfare, and with

new powers come new responsibilities. We should be open and transparent so that the people of Scotland have confidence in the stewardship of the nation's finances. To do that, we need a truly independent body to provide economic analysis and forecasting that will scrutinise Government, whatever colour that Government might be.

16:03

Gavin Brown (Lothian) (Con): I, too, thank the clerks, witnesses, experts and SPICe for all their efforts in helping us to scrutinise the bill. I express personal gratitude—at the risk of hindering his career—to the convener, Kenneth Gibson, who in my opinion has shown personal leadership on this particular issue.

We welcome the formation of the Scottish Fiscal Commission. It is critical that we have such a commission, and it will become more critical with each year that passes, which is why it is so vital that we get it right first time round. The bill as it stands is inadequate and does little but put into statute the Fiscal Commission that we currently have. That will not be enough for next year and will be nowhere near adequate for future years.

I will focus on the most glaring weaknesses in the bill. First, the Fiscal Commission has been given the job of simply assessing the reasonableness of the Scottish ministers' forecasts. That is all: it must assess the reasonableness and, ultimately, decide whether the forecasts are reasonable or not. Most of the experts who were asked about that made it very clear that being reasonable is an extremely low threshold, and it is difficult to find examples of circumstances in which forecasts would be unreasonable.

Indeed, that was confirmed last week when we spoke to the Fiscal Commission. I asked it whether, given that the prediction for the amount from the devolved taxes next year is £671 million, it could tell me approximately what sort of number below and above that figure would mean that a forecast could be classed as being unreasonable. The Fiscal Commission told me that it was impossible to do that. So, in the current format, it is impossible for the Fiscal Commission, which consists of extremely gifted and experienced individuals, to tell me what would be an unreasonable number in that regard.

Joe FitzPatrick: Will the member take an intervention?

Gavin Brown: Perhaps Mr Fitzpatrick will tell me what is an unreasonable number—we live in hope.

Joe FitzPatrick: In the Fiscal Commission's reports on last year's budget, it made it clear to the

Deputy First Minister that it thought that his predictions for non-domestic rates income were buoyant, and the Government then changed those predictions, so the member can see how reasonableness works in real life.

Gavin Brown: The minister would have been better to stay away from that example, because it contradicts what he said in his opening speech and what the Deputy First Minister said to us. We were told by the Deputy First Minister that changes to the forecasts would be publicly available, but that simply is not true. There was a dispute last year, but we do not know what the initial forecast for non-domestic rates was and, a year later, we do not know the magnitude of the change as a consequence of that disagreement; we were presented only with the final forecast. So, the minister's own words make it clear that the changes to the forecasts are not made publicly available. Again, that is one of our problems with the bill as it stands.

On reasonableness, there is a low threshold. The Fiscal Commission also made it clear in writing to the committee that it looks not at the final numbers—the outputs—but purely at the methodology.

The second problem is that the minister has tried to suggest that the committee's position of wanting the Fiscal Commission to do the forecasting is the outlier. However, that is not correct either, because the true outlier is the commission proposed by the bill.

Some fiscal institutes do official forecasts, some prepare their own unofficial forecasts and some rely on a number of different forecasts in order to reach their view. We would have the only fiscal commission on the planet that would rely solely on the official Government forecasts when looking at what we are likely to bring in. I could not find another example of such a fiscal commission. When I asked the Government for such examples, I was told that Sweden and Ireland were the examples to follow. However, we went to Sweden and found that that was incorrect, because the institute in Sweden examines at least six forecasts when deciding how much is likely to be brought in. Other committee members went to Ireland and found that the statement about the example there was not true either, because the Irish fiscal institute prepares not the official forecast but its own forecasts.

There are glaring weaknesses in the bill as it stands. On top of that, there is the issue of the lack of transparency. Okay, the Fiscal Commission will produce a report, but it was made clear to us by the Deputy First Minister himself that any disagreements between the SFC and the Scottish Government about numbers would remain private. The Scottish Government said that it would refuse

to publish any earlier figures that show a disparity and any figures that explain in numerical terms what changes have been made. The Government wanted to show us only the final forecast and went as far as saying that it would try to prevent, if it could, the SFC from publishing of its own accord details of disagreements over numbers.

Under the bill, therefore, we would end up with only a certificate of reasonableness from the Scottish Fiscal Commission that we could not look into and examine carefully. That is why the committee reached the position of welcoming the bill and supporting it at stage 1 but stating that huge changes need to be made to it at stages 2 and 3.

That is the committee's view on the bill, and I look forward to hearing the rest of the debate.

The Deputy Presiding Officer: We now move to the open debate. I call Chic Brodie, to be followed by Dr Richard Simpson. Four minutes, please.

16:09

Chic Brodie (South Scotland) (SNP): Thank you, Presiding Officer—although I confess that I do not know how to compress into a four-minute speech the importance of the creation on a statutory basis—as Kenneth Gibson pointed out—of the independent Scottish Fiscal Commission to review Scotland's proposed tax and borrowing powers and, indeed, the budget. However, I will try to do that.

This subject is a staging post in the journey that we are on. That journey already has the signposts of the additional tax powers that we have now and those that we know will come.

The Scottish Fiscal Commission will sit easily alongside what will, I believe, eventually be a Scottish treasury—in an independent Scotland—that interacts with the Government and provides assessment but does not manage the forecasting process. The oversight of budgets and financial forecasting is a reflection on how our country's fiscal process, rules and framework will work in its relationships—initially with the United Kingdom. However, as more and more financial powers are devolved the function will become even more critical, as we take overall control of the Scottish financial and fiscal landscape.

What is just as critical in the interim and final stages will be the commission's secured independence from Government. I was interested to hear Mr Brown talk about two countries, one of which was Sweden. If he had read the independent consultant's report, he would have found that Sweden does not have an independent fiscal institution.

It is inconceivable to think anything other than that the demand for purity in oversight of financial rules, processes and forecasting, and a robust relationship between that oversight and our overall economic strategy, are paramount—as are the methodology and analytical professionalism. I cannot help but draw a comparison between that and what Ms Baillie said about the UK OBR. She will know that, in the 34 OECD countries, the OBR is one of eight such offices that are under the control of the Government.

Jackie Baillie also mentioned the oil forecast, which the OBR was responsible for producing for the UK budget.

Jackie Baillie: Will Chic Brodie give way on that point?

Chic Brodie: No, I will not. I have only four minutes.

The OBR made a detailed projection of economic performance parameters, including the oil and gas outlook, as the basis for the Chancellor of the Exchequer's autumn statement. That was all changed within seven weeks and the UK gross domestic product forecast was changed downwards. The UK balance of payments was wrong, as was the forecast of UK borrowing. All that lends credence to what Alistair Darling said in 2010 about the OBR being a wing of the Tory party. Those forecasts might have had a significant impact on the Scottish fiscal and economic outlook; such forecasts destroy confidence.

Let us consider the statement in the OBR's "Economic and fiscal outlook—November 2015". It said:

"We published a methodology note in March 2012 which described how we planned to forecast these Scottish tax receipts ... In particular, the macroeconomic data that we would need to produce a Scottish macroeconomic forecast and economic determinants were generally not available at a Scottish level ... That remains the case."

The OBR is producing a forecast that impacts on Scotland. It continues:

"We are therefore not able to produce a Scottish macroeconomic forecast to drive the Scottish tax forecast."

That was November 2015—two months ago—and it is still the case.

Therein lies the reason for having a commission that is independent of Government, that is qualified, experienced and robust, and is underpinned by a clearly defined fiscal process and framework. The German Länder can do it, the Belgian High Council of Finance can do it and the Irish Fiscal Advisory Council can do it. So can we.

Independent scrutiny, forecasting, fiscal projections, and setting the fiscal rules are all key

foundations of what will be a strong Scottish economy.

16:13

Dr Richard Simpson (Mid Scotland and Fife) (Lab): I have read the Finance Committee's report and think that it is one of the best that I have read. I also thought that the convener's speech got to the nub of the problem, although he said that there are other issues. Chic Brodie's speech illustrated the point that forecasting is an inexact science. We all know that, and we know that there are some areas in public life in which duplication is appropriate. In this area, such duplication and understanding of the differences between forecasts are fundamental to the Parliament's understanding.

I welcome some aspects of John Swinney's response to the committee; I accept and welcome the five-yearly independent review, as I welcome the fact that we are going to get an annual report from the SFC.

However, the Government will endanger its own creation by giving the SFC a greater advisory role. Although that could be seen in the short term as being okay, it could also, as the convener pointed out, damage the independence of the commission. If we are to have confidence in our new situation, with our new taxation powers, that independence is absolutely important.

John Mason: Does Richard Simpson accept that Audit Scotland, which gives advice, is independent?

Dr Simpson: Yes—but Audit Scotland's function is somewhat different. It does not forecast; it scrutinises in retrospect, which is quite different.

The Finance Committee's report is useful in that it seeks clarity on the functions of scrutiny through a memorandum of understanding. Some of the issues, such as agreement to the methodology, might be clarified by that. There can be differences between methodologies because econometrics is not a precise science. Other issues include assessment of the forecasting methods, testing of the suggested numbers and propositions, commentary on initial assumptions and forecasts, and assessment of the reasonableness of the forecasts and any revised forecasts. Even that duplication does not give me the comfort that I would like, because "reasonableness" is a fairly low threshold, as a Conservative colleague indicated.

One of the biggest problems that we have had throughout my time in Parliament has been that we have looked only one year ahead; there has been a lack of looking forward and of long-term

strategies. For example, although we have a long-term strategy for climate change, the Government has, for one reason or another, missed the annual targets. I accept that has not been entirely its fault. The Scottish Fiscal Commission should look not just at the Government's forecasts for its one-year budgets; it should insist on long-term scrutiny. How will things be made up over the long term?

It is the same with health; as Audit Scotland has told us, our health budgets have all been short term. We need to think about the long-term prospects. We hold our health boards to account only for one-year periods, with a bit of brokerage. That does not serve us well as a country, so we need to take a much longer perspective. If the Fiscal Commission's independence is clear and is not jeopardised by its having an advisory role, it will be very effective.

The bill is welcome, although some issues could be addressed. I hope that at stage 2 the Finance Committee continues the excellent work that it has done by lodging amendments that will at least challenge the Government to look closely at the alternatives at stage 3, in order to ensure the independence of this important commission.

16:17

Mark McDonald (Aberdeen Donside) (SNP): I will cover a couple of areas on which the committee took evidence. My colleague John Mason dissented on areas in the report about forecasting, on which he holds very strong views. Committee members know that I expressed a number of reservations, but without going as far as dissenting. I will touch on those reservations.

I am always interested in the world according to Jackie Baillie. She again held up the OBR as an example of an organisation to which we should aspire. She spoke of lack of Government intervention and she spoke about oil forecasts. I want to speak about a letter that the OBR sent to the committee in July 2014. It said:

"Our medium term forecast for oil and gas production is based on projections by the Department of Energy and Climate Change".

That strikes me as the OBR relying on Government projections and forecasting to facilitate its work.

We were told that the Scottish Government's prediction of an oil price of \$113 per barrel was some kind of outlier, in terms of the international projections of oil price. The OBR's letter said:

"In our central scenario oil prices rise from \$102 a barrel in 2015 to \$160 a barrel in 2040. Under the EIA 'high price' scenario shown above, oil prices rise from \$138 a barrel in 2015 to \$350 a barrel in 2040, delivering £71.8 billion more revenue than our central projection. Under the EIA 'low price' scenario, oil prices drop to \$77 a barrel in 2015".

The idea that the Scottish Government was way out in left field in its oil price projections and that there was a range of soothsayers who had correctly predicted what was going to happen with the oil price simply does not bear scrutiny in any way, shape or form.

Jackie Baillie: Will Mark McDonald take an intervention?

Mark McDonald: If I can have a little bit of time back, I will take the intervention.

The Deputy Presiding Officer: You will have to take it out of your own time.

Mark McDonald: Jackie Baillie must talk fast, in that case.

Jackie Baillie: I will indeed.

The point that I was making was that perhaps nobody could have made that assessment and that judgement, and that therefore somebody independent of Government would instil more confidence, whether or not they are right about what actually happens. I also note that the OBR predicted a lower level than the Scottish Government predicted.

Mark McDonald: I am quite sure, Presiding Officer, that had the projections that the Scottish Government used been based on something that had been produced by the Scottish Fiscal Commission, Jackie Baillie would in no way whatever criticise or impugn those projections. I know that she would never seek to do that.

Let us look at forecasting, because that is where the nub of the disagreement arises. I share the reservations that John Mason has and, indeed, that the commissioners themselves have, around forecasting. I hear the point that has been made about the role that the Finance Committee could perform in scrutiny, but I have reservations about that; I do not think that I am in a better position than Professor Andrew Hughes-Hallett to scrutinise forecasts. What I think is important, first and foremost, is that the projections are analysed and scrutinised and that we can have confidence in them. I believe that when the Scottish Fiscal Commission provides its seal of approval for projections, that will be an important endorsement.

From listening to evidence from academics who came before the committee, I believe that there is a need for academic expertise and capacity to be built up. As powers come to the Parliament and as things develop, that will happen and it will enhance the forecasting by the Scottish Government and the analysis by the commission. At this early stage, to give the commission responsibility for the official forecast while that other capacity does not yet exist would be jumping the gun.

16:22

John Mason (Glasgow Shettleston) (SNP): There are a lot of good comments and recommendations in the report, and I associate myself completely with the bulk of them.

Clearly one of the main topics that we are discussing this afternoon, and have been discussing in committee, is who should do the forecasting. On that point I dissented from the Finance Committee's stage 1 report, as can be seen at paragraphs 69 and 136, so I will focus most of my remarks on that topic.

I find this a slightly unusual position to be in: the committee and the Government disagree on a point, and I am the only one who sides with the Government. I hope that members will believe that that comes not out of fear of challenging the Government, but from genuine belief.

The OBR is a relatively unusual model in that the UK Government has outsourced forecasting to it. The model proposed in the bill, in which the Scottish Government forecasts and the commission comments on the forecasts, is much more common. I do not think that we should be fixated on how London does things and I feel that some of the witnesses who came to our committee were slightly overawed by London. Jean Urquhart and I visited the Irish Fiscal Advisory Council in Dublin. Broadly speaking, its model is to check on and challenge Government forecasts. The IFAC is still developing—as is the SFC—and it can do some forecasting along the way, but in essence it looks at and challenges Government forecasts.

That is the model that is used, as I suggested earlier, for audits and for Audit Scotland, and it seems to work pretty well. Audit Scotland is an independent body that examines the Scottish Government, local government, the national health service and so on. It produces very challenging and respected reports, in my opinion, which often attract media attention, and politicians on all sides often refer to and quote them. It seems to me that that is a good model to follow: the Government produces forecasts and the SFC does the checking and challenging.

The need for independence is absolutely essential; however, independence is not linked to who does the forecasts. Rather, I suggest that independence comes, first, from having proper checks and balances in place and, secondly, from having the right people on the commission. It means, in particular, that commission members will have the courage to challenge Government. That is covered in paragraphs 41 and 42.

The ability to challenge forecasts is important. Just last week at the Finance Committee we had the SFC with us as we examined its "Report on Draft Budget 2016-17". As members might know,

the report runs to some 60 pages and is excellent. Some of it is quite technical: for example, in paragraph 3.32 the SFC considers the pros and cons of univariate and multivariate modelling. I suspect that some members might struggle to explain the difference between the two approaches.

If the SFC was to produce the forecasts, who would challenge those forecasts? Government is not independent enough, and the Finance Committee does not have the in-depth skills that would be required, as Mark McDonald said. Would we need another body? I put that question to the SFC last week and to the cabinet secretary yesterday, but neither the SFC nor the cabinet secretary could give me an answer. In my opinion, that is because the OBR model is not a good one. We heard yesterday, as I said, that the OBR is hampered because it cannot exchange information with Government departments.

Cost is a factor here too. Are we saying that a relatively small country such as Scotland, which has pretty limited powers over tax and the economy, needs two organisations to do the forecasting? That would cost us a bit. Are we saying that the Scottish Government should just not do any forecasting? That would seem a bit strange.

The SFC has a potential budget of £850,000, although its members assure us that they will try not to spend it all. The proposed budget compares favourably with the Irish body's €800,000 and the Swedish body's €1 million. The SFC is well resourced and we should not be upping the budget to duplicate work.

Although the subject is quite technical, it has been fascinating. I think that we made a pretty thorough study of the issues. I have every respect for the three commission members: Lady Rice, Professor Hughes Hallett and Professor Leith. I am happy to support the main recommendations of the committee.

16:26

Elaine Murray (Dumfriesshire) (Lab): I congratulate the Finance Committee on the considerable amount of work that it has undertaken, not just on the bill, which was introduced at the end of September, but on its report on proposals for a Scottish Fiscal Commission almost two years ago and its visits to Stockholm and Dublin last year to meet the Swedish and Irish equivalents of the Scottish Fiscal Commission, along with representatives of Government and Parliament and fiscal forecasters—I thought that Chic Brodie seemed to suggest that Sweden does not have an equivalent body; if that is actually what he said, I wonder

what some committee members were doing in Stockholm.

I read the committee's report with considerable interest. It makes important points, which the convener summed up eloquently. The Scottish Fiscal Commission is intended to be an independent fiscal institution. The tension between its roles of influencing Scottish Government forecasts and providing an independent assessment of those forecasts was thoroughly discussed, and the report makes several recommendations in that regard, including for a memorandum of understanding between the Scottish Government and the commission.

In its report, the committee pointed out the need for more clarity on the commission's functions and greater transparency in how it carries them out. The bill will require the SFC to lay its report on the reasonableness of the Scottish Government's tax forecasts on the same day as the draft budget is laid. Any other reports to the Parliament must be copied to ministers in advance of being laid.

Some witnesses, including the Royal Society of Edinburgh, argued that commission assessments of Government forecasts should be carried out after the forecasts' publication, to ensure transparency. The committee recommended that the SFC should be able to challenge and criticise Government publicly when necessary and that disagreements with the Government and their outcomes should be published. I welcome those recommendations.

The financial memorandum to the bill states that it relates only to powers that are transferred under the Scotland Act 2012; for understandable reasons it does not relate to the additional powers to be transferred as a result of debates on the current Scotland Bill. The resourcing of the SFC will therefore require to be reviewed in light of the Scottish Government's additional tax raising responsibilities and the additional responsibilities for the SFC in that regard.

It appears that resourcing to enable the commission to undertake its own forecasts has not been included. A majority of witnesses argued that the SFC should produce the official forecasts. Professors McGregor and Swales pointed out that forecasting, whether official or not, is international practice, and the experience of the Irish Fiscal Advisory Council was that it soon realised that it needed to be able to produce its own forecasts if it was to be able to endorse—or not endorse—the Government's forecasts. Resourcing for forecasting therefore appears necessary.

The committee rightly questioned the ability of the processes for which the bill provides to demonstrate the SFC's independence. In its

recommendations on page 12 of the report, it noted:

"The model being proposed in the Bill depends on a high level of behind-the-scenes interaction between the Commission and the Scottish Government."

That includes interaction to seek agreement on methods and to test numbers and propositions. As has been discussed, the committee has, therefore, recommended that the commission should produce the official forecasts.

On the issue of governance and who appoints the commission, I note that the committee supports the appointment processes that are described in the bill, whereby the members are to be appointed by ministers but approved by Parliament. I accept that the committee has perused the evidence on that, and I respect its view. However, having very recently been involved in the appointment of the chair of the Scottish Human Rights Commission, I feel that there is considerable merit in appointments being made by Parliament in order to secure cross-party agreement and confidence. The latter will be essential if the SFC is to operate effectively.

I have been a member of the Justice Committee for the past two years, but I was previously on the Finance Committee. The Justice Committee has influenced and changed legislation, and I am hopeful that the Finance Committee will play that role with regard to this bill. I am happy to support the principles of the bill at stage 1, but I hope that the Finance Committee's views prevail in the long run.

16:30

Joan McAlpine (South Scotland) (SNP): I will take a slightly different tack and look more generally at forecasting and its unreliability. Other members have mentioned oil forecasting, and I have in front of me the Department of Energy and Climate Change's July 2013 fossil fuel price predictions. For 2015, it predicted a low of \$92 a barrel and a high of \$137 a barrel. That shows that, even when predictions are made by experts, they often go wrong.

On 21 October 1929, the Yale economics professor Irving Fisher said:

"Stocks have reached what looks like a permanently high plateau."

Three days later, on black Thursday, the market collapsed and the great depression arrived. In 1984, *The Economist* conducted an unusual survey for its Christmas issue. It invited four chairmen of big multinational companies, four University of Oxford students and four London bin men, or dustmen as they call them down there, to offer their predictions on the economy over the next 10 years. A decade later, the accuracy of

their forecasts was checked and each group was given a mark for their predictions. The bin men scored joint top, along with the company bosses. In fact, the bin men demonstrated more foresight than any other group when it came to the price of oil—perhaps that is where we all went wrong. As the economist John Kenneth Galbraith once said:

“The only function of economic forecasting is to make astrology look respectable.”

I am being only half-serious in saying those things. However, as other members have said, even the independent OBR, which has been suggested as a model for the commission to emulate, admitted in its 2012 forecast evaluation report that projections are always a best guess. It said:

“we have been at pains to point out that there is enormous uncertainty around any economic forecast and that policymakers and others need to recognise this when taking decisions based on them.”

In any event, as members have noted, HMRC continues to produce tax forecasts on behalf of the OBR. In January last year, Edward Troup, the second permanent secretary at HMRC, told the Finance Committee.

“We measure and forecast, and the published forecasts are signed off by the Office for Budget Responsibility ... Although the OBR has been praised for its independence, from our perspective, the process feels very much the same as it was when the Treasury was doing the forecasting—we had the same conversations with colleagues in the Treasury, and the Treasury would make those forecasts.”—[*Official Report, Finance Committee*, 21 January 2015; c 43, 45.]

If the Scottish Fiscal Commission prepares official forecasts, it may be similarly reliant on Scottish Government and Revenue Scotland data and resources, leading, as others have noted, to duplication of effort within the commission and the Government.

In my view, the most important thing is that we get the commission’s role as a commentator right. Its independence is being assured by the bill and it must be fully resourced—if there is duplication, that might mean that it is not fully resourced. That is important, as it needs to develop analytical capability and capacity in order to provide a benchmark set of projections.

Of course the commission will be free to make its own forecasts, which offers a wider range of options. It is answerable to this Parliament and, I assume, the Finance Committee, which has shown its independence in producing its report.

I am confident that the commission’s initial remit will be expanded to reflect further powers as they are devolved to the Scottish Parliament and I welcome the bill.

16:35

Nigel Don (Angus North and Mearns) (SNP):
This has been a very interesting debate.

I note that the commission’s purpose is to provide independent scrutiny of Government tax forecasts and economic conditions. In passing I will put on my convener’s hat, as I have done before, to note that the ancillary powers and all the other delegated powers in the bill were considered by the Delegated Powers and Law Reform Committee and we had no concerns whatever about what was proposed.

There has been discussion about the independence of the forecasting. However, before I turn to that, I will refer to the way in which it is suggested that members of the commission will be appointed. As Dr Murray said, they will be appointed by the Government, they will be removable and it is a matter of some concern that that be done on appropriate terms. I note that section 16(1)(b)(i) states the Government may remove members of the commission only when they are “otherwise unfit” or make themselves unavailable and, even then, that may happen

“only with the approval of the Scottish Parliament.”

It seems to me that that is about as good as it is going to get in a parliamentary democracy and that it is probably the right approach.

I welcome the minister’s comments about allowing commission members to have a second term, having defined lengths of term and having terms staggered—which has already been agreed—because continuity is extremely important.

There has been some comment about whether the bill restricts the commission’s functions. The commission itself suggested on page 3 of its letter to the Finance Committee that it would like to have other powers to assess the sustainability of Scotland’s public finances and the Scottish Government’s adherence to its own financial rules. Section 2(3) of the bill probably covers all that, given that it states that

“The Commission may from time to time prepare reports setting out its assessment of the reasonableness of such fiscal factors (other than those mentioned in paragraphs (a) to (d) 25 of subsection (1)) as it considers appropriate.”

I think that that is wide enough to cover precisely the things that the commission mentioned in its letter and probably pretty much anything else that might come up.

I will skip on past the discussion about the independence of forecasts, which I do not have time to add to, to look at the question of reasonableness. I think that Gavin Brown commented on whether what is provided for in that regard is appropriate and Dr Simpson mentioned

methodology and final numbers. I suggest that what is being proposed is probably very sensible.

A few years ago, back in the days when planes used to crash rather more often than, mercifully, they do now, I was much struck when, following a plane crash, the chairman of the company came on the television and assured us that planes were run using two parallel computer systems and that it was quite impossible that both would have failed at the same time. That demonstrated that he was not a systems man at all, because he completely missed the point that if we give the same system the same data it will make the same mistake; the only way that we will get different economic predictions is by having a different methodology because we will undoubtedly be putting in the same basic data, assuming that we have it.

Professor Hughes-Hallett put it nicely in his evidence to the committee. When the convener asked him what reasonableness was about, he said that the predictions should get better from year to year. To quote him directly, he said that predictions

“should be better than they were last year.”—[*Official Report, Finance Committee, 25 November 2015; c 49.*]

He wants to see better data and we understand that it is not there.

It seems to me that all of this is in its infancy. We are starting in a good place and we need to recognise that things will develop. What is before us now is not the finished article, but it is a very good place to start.

The Deputy Presiding Officer: Before we move to the closing speeches I invite all members who have taken part in the open debate to return for them. I call Gavin Brown, who has four minutes.

16:39

Gavin Brown: It has been an interesting debate and it was pleasing to hear a number of members praise the Finance Committee’s work.

It is worth reflecting on a comment that was made by Jeremy Peat of the international public policy institute at the University of Strathclyde. He published a paper last month that said:

“the Finance Committee of the Scottish Parliament is to be praised for its continuing robust examination of the Government’s proposals and willingness to seek and take full account of informed commentary.”

It is worth the Government reflecting again on the report and the central conclusions that the majority of the Finance Committee reached about stages 2 and 3 because, if we proceed with the bill without substantial change, we will be left with a group of highly qualified advisers. They will,

ultimately, perform an advisory role. Yes, they will scrutinise forecasts in private and challenge the Government but, if the only forecast that is ever published is the final result that the commission deems to be reasonable, we will not get the level of scrutiny that we require or what is defined internationally as an independent fiscal institution. The Parliament wants and needs such an institution and it becomes more important with every extra power that we get.

Joe FitzPatrick: Does Gavin Brown accept that, in OECD countries throughout the world, the overwhelming majority of independent fiscal institutions do not produce the forecasts? The forecasts are produced by the Governments and the institutions assess them.

Gavin Brown: The minister needs to go into a bit more depth on that. As I said in my opening speech, some institutions do the official forecasts, some produce their own unofficial forecasts and others scrutinise the Government forecasts alongside several other independent forecasts. If we proceed with the bill as it is, we will have the only fiscal institution that I can find on the planet that scrutinises solely the official Government forecasts. I have put that point to the Government at least half a dozen times.

As we have heard from the convener and many experts, Governments, regardless of their stripes, have an optimism bias by definition. Governments want to do things; they do not want to have the blocks put upon them. Therefore, there is an optimism bias. I do not want to dwell on oil revenues, but the oil revenue projections that the Government produced just before the referendum are a clear example of the fact that optimism bias affects it as much as it does any other Government.

Mark McDonald: At the same time, the projections on LBTT from the Scottish Government and the OBR were a long way apart, and the OBR has had continually to revise downwards its projections for LBTT and other devolved taxes to bring them more into line with the Scottish Government’s more realistic estimates.

Gavin Brown: Okay, so the Scottish Government was closer to the mark on a smaller tax but it was miles adrift on a far larger tax at a time when it would have affected the country hugely.

I am a little surprised and disappointed at Mr McDonald’s position in the debate. The report was published a week ago and he signed up to it without dissenting from any paragraphs. He signed up to the entire report, including the central conclusions, but eight days later, he tries to distance himself from those conclusions. I leave it

to him to defend that position but, if committee members sign up to a committee report, they ought to stand by it and not fall away from it just a week later.

The crucial point relates to forecasting. There are big dangers in having only an official Government forecast. That is why we reached the conclusions that we did. However, the weaknesses in the bill go deeper than that. The idea of only assessing reasonableness without commenting on the final numbers does not go anywhere near far enough. The idea that any disagreements over numbers will never be published so that they can be scrutinised is unacceptable and goes against the basic OECD principles. Again, if we stick with the Government's position, we will have the only fiscal institution that we have been able to find on the planet that considers only Government forecasts.

The Conservatives will vote for the bill. We support the setting up of the Scottish Fiscal Commission but it must be more than a group of advisers if we want to get it right. Eventually, we will be talking about billions upon billions of pounds, so we have to get it right. That is why we will need to make changes at stages 2 and 3.

16:45

Lewis Macdonald (North East Scotland) (Lab): It has been a productive debate. The Finance Committee's convener and a number of its members have laid out the basis for their report very clearly and have pointed us towards the changes that we will undoubtedly debate at stage 2.

We all agree on the need for an independent fiscal institution for a devolved Scotland. The nature of the Scottish Parliament is changing, thanks to the Scotland Act 2012 and the changes arising from the Smith agreement. The question is whether the Scottish Fiscal Commission as it is currently proposed is fit for purpose, or whether more should be done to give it the power that it needs to do its job.

The 2012 act prompted the creation of the Scottish Fiscal Commission in 2014. As Jackie Baillie said in her summary, it was initially set up as a non-statutory body to deal with issues surrounding the taxes that were being devolved to the Scottish Parliament for the first time. Given that a further Scotland Bill is set to devolve much more extensive financial powers to the Scottish Parliament, it is clear that the role of the Fiscal Commission needs to be formalised and placed on a statutory footing, independent of ministers, so we welcome the bill, but we want it to be strengthened.

The main functions of the Fiscal Commission as proposed would be to assess fiscal forecasts that are produced by other organisations, and to commission research and appoint committees to consider relevant issues. As has been said, unlike the Office for Budget Responsibility, it would not produce its own fiscal sustainability report, nor would it have the power to examine the affordability or sustainability of policies.

Even to carry out the more limited functions that are intended for it, the Fiscal Commission will require to have access to financial information from the Scottish Government. As we have heard, the bill allows the commission to have access to but not to publish relevant information from the Government and other Government agencies such as Revenue Scotland. The Finance Committee has rightly called for that right of access to be established on a statutory basis. There can be no meaningful assessment of fiscal forecasts that are produced by the Scottish Government without the relevant information being to hand. After all, that is the point of creating the new body.

Independence from the Scottish Government is another key aspect of the bill and an issue that a number of members have touched on. The OECD has developed a number of minimum requirements for independent fiscal institutions, and the importance of that independence is covered in some depth. For example, independence in the recruitment and management of staff was highlighted by the Scottish Government's Council of Economic Advisers in its 2013 report, "Fiscal Rules and Fiscal Commissions", in which it said:

"An important aspect is to avoid institutional capture whereby those working in an independent fiscal commission are formally—or informally—part of the government".

That is clearly something to which we would all subscribe—that is the whole point of a fiscal commission.

Like Audit Scotland, which has also been mentioned, the Scottish Fiscal Commission must be free to speak the truth to those with power, and it must not depend on the good will of ministers to respect the proper boundaries. If the Government's own advisers understand that point, ministers should accept it, too.

That is of particular importance during the Fiscal Commission's transition from a non-statutory to a statutory body. Seconding staff with relevant expertise and experience from the Scottish Government might be helpful to get the commission started, but that must not be done in a way that compromises its independence or makes it dependent on any Government directorate.

The issue of independence is not just about staffing and recruitment. Without the powers that the OBR enjoys to produce its own economic and fiscal forecasts, the Fiscal Commission will be wholly reliant on the figures that are produced by the Scottish Government in making its assessments. There has been some discussion about whether the capacity of the OBR to produce its own fiscal forecasts is unusual or whether its character is significant. Other such bodies in Belgium and the Netherlands do the same sort of thing, and it is common for fiscal institutions in other countries to use information and forecasts from Government and independent experts, as members of the committee have witnessed for themselves.

Joe FitzPatrick: Does the member recognise that the bill as drafted does not prohibit the Scottish Fiscal Commission from producing its own forecasts or looking at any others that it wishes to?

Lewis Macdonald: Indeed it does not, but as we have heard, some of those who resist the proposition that the Fiscal Commission should produce its own forecasts have said that, were it to do so, that would be duplication. Of course there is no statutory bar to it. I think that what the Finance Committee is arguing is that statute should encourage it, make it possible and specifically provide for it. That is where there is a deficit.

In interventions, the minister has suggested that, because independent forecasting is not done by many parallel bodies, that implies that it should not be done in the case of the Scottish Fiscal Commission. Surely in devising appropriate institutions for a modern devolved Scotland, we should seek not the weakest form of independence or power, but the most robust. That is what the Finance Committee has proposed, and the Government should at least reconsider the point before stage 2.

The commission should have the powers to test the Government's fiscal rules and the long-term sustainability of the public finances. On transparency, the Scottish Government's reluctance to reveal details of disagreements is revealing in itself.

All those matters have rightly been highlighted in the debate. I look forward to continuing cross-party efforts to improve the bill further at stage 2.

16:50

Joe FitzPatrick: I genuinely thank members for their contributions to the debate and for offering their views on the Scottish Fiscal Commission Bill. The Government will, of course, consider those views as the bill continues through the

parliamentary process, subject to its being passed at decision time.

I will try to cover some points that have been raised. Dr Simpson and Nigel Don, I think, talked about additional powers and functions, and Dr Simpson suggested the idea of longer-term scrutiny. In fact, this year, for the 2016-17 budget, we published five-year forecasts for the devolved taxes, which were scrutinised by the Scottish Fiscal Commission. Dr Simpson also talked about when additional powers come to the Parliament. The Government is clear that, when those additional powers come to the Parliament, we will consult on proposals for how the commission's remit should be expanded.

The committee talked about the long-term sustainability of public finances. The Government very much takes the view that holding the Government to account and holding ministers directly to account for the robustness of our financial judgment are primarily roles for members of the Scottish Parliament. Obviously, the Parliament as an institution will look to ensure that members have the resources to do that. I remember that, when I was a member of the Finance Committee in the previous session, there was no financial scrutiny unit. That was a Parliament innovation to bolster the robustness of the support that could be given to members as the Parliament's powers grew. That is a very important point.

John Mason, Mark McDonald and, I think, Joan McAlpine referred to the arrangements around the Office for Budget Responsibility. It is a fact that it is not as transparent as people perhaps once thought it was. HMRC continues to produce tax forecasts on behalf of the OBR, as the second permanent secretary at HMRC told the Finance Committee in January last year. There is really a lack of transparency about the nature and effect of the OBR's scrutiny of forecasts that HMRC has prepared. The Scottish Government is determined to ensure that there is transparency in the process that we take forward.

Gavin Brown: If the Government is so keen on transparency, why will it not publish any numerical disagreements between the Scottish Fiscal Commission and the Government?

Joe FitzPatrick: I will deal with that point right now. In his contribution earlier, Gavin Brown suggested that the Deputy First Minister had said that he would block the publication of such figures. I have the *Official Report* of what the Deputy First Minister said. He said:

"I will have a quick look at the bill because I suspect that I might be in conflict with section 6 if I was to block such a proposition, although I would argue strongly against its desirability".—[*Official Report, Finance Committee, 2 December 2015; c 15-16.*]

Although the Deputy First Minister said that he was unconvinced about the desirability of publishing two sets of figures, he made it very clear that it was not in his power to block such things, and he has gone further.

Gavin Brown: The minister has just said that the Government is keen on transparency. Why, then, is he not encouraging transparency?

Joe FitzPatrick: I thank the member for helping me to come to my second point. I am sure that he has read the Deputy First Minister's letter to the committee in response to the stage 1 report, in which he says:

"While I have reservations about the public interest which would be served by publishing multiple forecasts, I am willing to revisit the Committee's recommendation that both the original and revised forecast should be published where changes are made to Scottish Government forecasts following Commission scrutiny."

That is the way in which the Deputy First Minister and the Government have approached this. We are listening to the committee. Dr Simpson praised the committee for its work and the way in which its report is written. I would echo that. It is a very thorough piece of work. Although we remain unconvinced by the committee's central disagreement with the Government about who should produce the forecasts, we are keen to work with the committee to improve transparency and ensure that the commission is not just independent but seen to be independent. Those are important points.

It has been suggested that we should propose to the commission that, as part of its process, it should produce alternative forecasts. In committee, Jackie Baillie called it "a third way". In some of the countries that were visited, Sweden in particular, alternative forecasts are produced by the fiscal body. That is allowed for in the bill. The bill has specific provisions to allow the commission to publish such forecasts. However, it is very clear that that is not necessary. In its evidence at stage 1, the International Monetary Fund said:

"There is no need for the SFC to present its own forecasts."

It is really a matter for the commission to determine.

Gavin Brown: The minister said that the bill has provisions for the Scottish Fiscal Commission to publish forecasts. Which specific provisions are those?

Joe FitzPatrick: Section 2(5) allows for the commission to publish any other information that it wants to publish. The commission is an independent institution. It is for the commission to determine whether it wants to publish alternative forecasts, although the commissioners are not of the view that that would be helpful. Lady Rice said:

"We think that there needs to be one producer and one assessor of the official forecast. If you were to turn to the Fiscal Commission and say, 'Actually, we've changed our minds. You do the official forecast,' we would need to be assessed by someone ... If we did our own forecast and then needed to defend it, we, too, might be biased."

Professor Andrew Hughes Hallett concurred. He said:

"Then there is the question of second opinions. We are doing a kind of second-opinion exercise—the Government will produce its forecasts and we will provide a second opinion. ... Doing it this way round gives us the freedom to compare the Government's forecast with other forecasts".

He went on to say:

"I think that being asked to do the official forecasts would seriously compromise our independence."—[*Official Report, Finance Committee*, 25 November 2015; c 53-55.]

Another thing that I think would seriously compromise the commission's independence would be if we were to tell the commission that it had to produce alternative forecasts. In his report to the committee, Ian Lienert, the independent public finance consultant whom the committee commissioned to produce a report on the matter, said:

"It is rare for an independent fiscal institution to be obligated by legislation to prepare alternative fiscal forecasts."

Although it is absolutely clear that the commission can do that, it would be detrimental to its independence if we were to sit here and say that it must do that.

This has been a fantastic debate. I thank all members for their contributions and hope that everyone will be able to support the general principles of the bill at decision time.

Scottish Fiscal Commission Bill: Financial Resolution

17:00

The Presiding Officer (Tricia Marwick): The next item of business is consideration of motion S4M-14626, in the name of John Swinney, on the financial resolution to the Scottish Fiscal Commission Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Scottish Fiscal Commission Bill, agrees to any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament's Standing Orders arising in consequence of the Act.—[*Joe FitzPatrick.*]

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

Business Motion

17:00

The Presiding Officer (Tricia Marwick): The next item of business is consideration of business motion S4M-15324, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a revision to the business programme for Tuesday 19 January.

Motion moved,

That the Parliament agrees to the following revision to the programme of business for Tuesday 19 January 2016—

after

followed by Final Stage Debate: National Galleries of Scotland Bill

insert

followed by Legislative Consent Motion: Welfare Reform and Work Bill – UK Legislation—
[*Joe FitzPatrick.*]

Motion agreed to.

Decision Time

17:01

The Presiding Officer (Tricia Marwick): The first question is, that motion S4M-15304, in the name of Angela Constance, on the Higher Education Governance (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brennan, Lesley (North East Scotland) (Lab)
 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)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 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)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Hilton, Cara (Dunfermline) (Lab)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alison (Lothian) (Green)
 Keir, Colin (Edinburgh Western) (SNP)
 Kelly, James (Rutherglen) (Lab)
 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, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Malik, Hanzala (Glasgow) (Lab)

Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 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)
 McDougall, Margaret (West Scotland) (Lab)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)
 McTaggart, Anne (Glasgow) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pearson, Graeme (South Scotland) (Lab)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (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)
 Yousaf, Humza (Glasgow) (SNP)

Against

Brown, Gavin (Lothian) (Con)
 Buchanan, Cameron (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Davidson, Ruth (Glasgow) (Con)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Liz (Mid Scotland and Fife) (Con)

The Presiding Officer: The result of the division is: For 84, Against 20, Abstentions 0.

Motion agreed to,

That the Parliament agrees to the general principles of the Higher Education Governance (Scotland) Bill.

The Presiding Officer: The next question is, that motion S4M-15303, in the name of John Swinney, on the Scottish Fiscal Commission Bill, be agreed to.

Motion agreed to,

That the Parliament agrees to the general principles of the Scottish Fiscal Commission Bill.

The Presiding Officer: The next question is, that motion S4M-14626, in the name of John Swinney, on the financial resolution to the Scottish Fiscal Commission Bill, be agreed to.

Meeting closed at 17:02.

Motion agreed to,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Scottish Fiscal Commission Bill, agrees to any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament's Standing Orders arising in consequence of the Act.

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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