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Official Report

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Thursday 28 September 2017

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Scottish Parliament

Thursday 28 September 2017

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

General Question Time

Cyberattack (Risks to Government Agencies)

1. David Stewart (Highlands and Islands) (Lab): To ask the Scottish Government what assessment it has made of the risks that it and its agencies face from cyberattack. (S5O-01305)

The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney): The Scottish Government assesses the risks that are related to cyberattacks on a continuous basis, and the controls that have been established to mitigate cyber-related risk are monitored by Scottish Government's audit and assurance committee. The Scottish Government works closely with the United Kingdom's national cybersecurity centre to monitor and understand the risks of cyberattack. We will shortly publish a new cybersecurity strategy that will set out actions to ensure that our organisation is cyberaware, makes sound risk-based decisions about cybersecurity, is defended from the majority of cyberattacks and is resilient enough to be able to recover quickly from a successful attack.

David Stewart: Western Governments and beyond are facing their own digital battles of Britain. A series of brute-force attacks, which are sometimes state sponsored, have compromised hospitals, schools and critical infrastructure, such as water and power. Will the cabinet secretary host an urgent meeting with representatives of the national cybersecurity centre to review the Scottish Government's cybersecurity strategy?

John Swinney: I met the chief executive of the national cybersecurity centre on 5 September. We had a very constructive discussion about the work by the Scottish Government and the centre that is necessary to ensure that the Government and our public authorities and agencies are protected in that way. As I said in my earlier answer, we are fully committed to taking all possible practical and tangible steps to do that. I recognise the significance and the seriousness of the issue that Mr Stewart raises and I assure him of the Government's determination to do all that it can to ensure preparedness in that respect. As part of that, we will continue our discussions with the national cybersecurity centre to ensure that all lessons that we need to learn are learned and applied in practice.

Finlay Carson (Galloway and West Dumfries) (Con): What steps is the Scottish Government taking to ensure that any new computer system, for example that of the Scottish social security agency, is protected from a cyberattack? What security measures are in place?

John Swinney: In the work that we undertake to ensure that we are cyber-resilient, we have to apply all the lessons learned to the design of any systems or approaches that are taken forward. As I said in my earlier answer, the approach that the Government takes is to ensure that we make sound risk-based decisions on cybersecurity and that we put the necessary defence mechanisms in place. The social security computer system will deal with a very significant amount of individuals' personal information and we have to make sure that that is properly protected by the steps that we take. I assure Mr Carson and other members that that is at the heart of the preparations that the Government is taking.

Her Majesty's Revenue and Customs Data (Access)

2. Gillian Martin (Aberdeenshire East) (SNP): To ask the Scottish Government what action it is taking to gain greater access to data held by Her Majesty's Revenue and Customs that could assist in economic policy making. (S5O-01306)

The Cabinet Secretary for Economy, Jobs and Fair Work (Keith Brown): The Digital Economy Act 2017 will enable HMRC to more easily share data with other organisations, including the Scottish Government, than has previously been possible, subject to appropriate data security and other requirements being met. We are working very constructively with HMRC to make use of the new powers to improve our economic statistics and analysis. In addition, the Scottish Government is working with HMRC to agree a service level agreement that will ensure that it provides relevant and timely data to enable us to discharge our duties in respect of the Scottish income tax.

Gillian Martin: In evidence to the Economy, Jobs and Fair Work Committee, a number of witnesses pointed out that gross domestic product on its own is a very blunt indicator of economic success and that more has to be done to quantify economic success in terms of inclusive growth. What measures and data does the Government intend to use to analyse how well Scotland is doing in those terms?

Keith Brown: GDP is, of course, an important indicator of economic performance, but we have long recognised that it is not the only one. That is why our national performance framework considers a wider basket of indicators, including reducing income inequality, reducing the gender

pay gap and reducing the share of employees who earn less than the real living wage, all of which are important for inclusive growth. Delivering more inclusive growth is an essential part of the Government's economic strategy. The national outcomes, which we are currently refreshing, and the indicators that underpin them will be strongly influenced by the priorities that are articulated in our economic strategy.

Dean Lockhart (Mid Scotland and Fife) (Con): Last week, the Economy, Jobs and Fair Work Committee also heard evidence that the Scottish Government already has a vast amount of data that could be used for a wide range of policy considerations but does not fully understand how to use it. How will the Government improve its use of the economic data that is available to it?

Keith Brown: I refute the underlying assumption that we do not know how to use the data. However, as the Economy, Jobs and Fair Work Committee's deliberations showed, there is a real, live debate about the nature of the data that we have and whether it can be improved. That is perfectly legitimate. The Government is seized of that. It has been mentioned by different parties in the chamber and mentioned most recently to me by the Scottish Council for Development and Industry, which also raised it with me last year. The new analytical unit that will be established alongside the strategic board will enable us to make the most effective use of the data and ensure that we have the right data on which to base our economic decisions.

Miners' Strike 1984-85 (Policing Inquiry)

3. **Neil Findlay (Lothian) (Lab):** To ask the Scottish Government when it will confirm whether there will be an inquiry into the policing of the 1984-85 miners' strike in Scotland. (S5O-01307)

The Cabinet Secretary for Justice (Michael Matheson): As I stated in my recent letter, the Scottish Government has actively been considering a way forward. During those considerations, a number of legal and procedural questions have emerged, and we are steadily working through them. I am at an advanced stage in my consideration of the matter and aim to confirm my decision shortly.

Neil Findlay: It is 10 months since I, union officials and former miners and their legal representatives met the cabinet secretary. The divisions and scars of that time still run deep in communities, so I urge him to reflect on all the evidence that has come out post-Hillsborough and to do the right thing by holding an inquiry into what I believe are historic miscarriages of justice.

Michael Matheson: When I met the member and representatives from the mine workers unions,

I made it clear that I would consider the matters that they raised with me. That is what I have been doing over recent months. As I just stated, I will confirm the Government's decision on the matter in due course.

James Dornan (Glasgow Cathcart) (SNP): As the main source of injustice towards the miners was the action of the then United Kingdom Government and, more importantly, neither the Scottish Government nor any public inquiry in Scotland would have the power to overturn convictions, does the cabinet secretary agree that it remains for the UK Government to carry out the inquiry and that the sooner it does that, the better?

Michael Matheson: The member is correct that the source of injustice in relation to the policing of the miners' strike relates to the actions of the Conservative UK Government of the time. However, I have always been clear that any individual convictions in Scotland relating to the miners' strike would be a matter for the Scottish Criminal Cases Review Commission. I wrote to the Home Secretary on 7 November last year making it very clear that the UK Government should commission and appoint an independent UK-wide investigation into any political interference during the dispute. As members know, the UK Government has not taken that action.

Live Music (Support)

4. **Tom Arthur (Renfrewshire South) (SNP):** I refer members to my entry in the register of members' interests in relation to music and my membership of the Musicians Union.

To ask the Scottish Government how it supports the live music sector. (S5O-01308)

The Cabinet Secretary for Culture, Tourism and External Affairs (Fiona Hyslop): The Scottish Government is committed to supporting live music through the youth music initiative, specific support for festivals and our national performing companies. Over the financial year 2016-17, Creative Scotland awarded more than £12.8 million to music projects and organisations. That figure increases to an estimated £15 million when we take into account the many multi-art-form venues and festivals across the country that include live music as part of their programmes. We have also confirmed £10 million towards a new concert venue for Edinburgh, which will reinforce the capital's reputation as a leading centre for music and the performing arts.

The creative industries work sector of the British-Irish Council is considering the best ways to support live music venues and the flow of musicians into the United Kingdom music industry. The council will report to ministers in November 2017.

Tom Arthur: The cabinet secretary will, no doubt, be aware of the concerns of key stakeholders such as the Musicians Union about Brexit's potentially detrimental impact on the live music sector for musicians from other European Union countries performing in Scotland and for Scottish musicians performing in Europe. Does she agree that our live music sector would be best served by our continuing membership of the single market and, crucially, the continuation of freedom of movement?

Fiona Hyslop: Indeed I do. Membership of the single market and freedom of movement are vital to many of our industries, and particularly the music industry. An estimated 10 per cent of the United Kingdom music industry's workforce are non-UK EU nationals. Membership of the single market and freedom of movement allow our musicians to take their work to a market of 500 million people with minimal administrative barriers. Freedom of movement is very important.

I quote Lisardo Lombardia, director of the Festival Interceltique de Lorient, where 220 Scottish performers performed this summer, as Scotland was the country of honour. He said:

"The free circulation of culture and ideas, particularly for artists and works of art, has helped Scotland develop its strong reputation in arts, music and creativity and become a major country for European culture. We want that to continue in the future."

That shows the value of the single market and freedom of movement to our musicians, not just here in Scotland but across Europe.

NFU Scotland (Meetings)

5. Margaret Mitchell (Central Scotland) (Con): To ask the Scottish Government when it last met NFU Scotland. (S5O-01309)

The Cabinet Secretary for Rural Economy and Connectivity (Fergus Ewing): Last week.

Margaret Mitchell: The cabinet secretary might be aware that rural crime was discussed at a round-table session in the Justice Committee. Following that, the Solicitor General for Scotland established a working group to review the position, which led to the Crown Office and Procurator Fiscal Service updating policy and guidelines on agricultural crime. Rural crime levels subsequently fell. However, since January, there has been a widely reported increase in sheep worrying and farm thefts. Will the cabinet secretary outline the plans to tackle that?

Fergus Ewing: The issue is serious and important. As the member indicated, it is taken extremely seriously by the law officers and Michael Matheson. The theft of sheep in remote rural locations, which is often conducted under cover of darkness, is a shocking crime and it is

absolutely right that we take all possible steps to tackle it. I urge anyone in rural Scotland who sees any suspicious act of that nature to report it immediately to the police. Of course, the nature of the place where such crimes happen is such that it is perhaps difficult to expect that evidence is likely to be readily available, which makes the crime more despicable.

The financial and emotional damage to farmers is considerable. I am certainly happy to work with all members across the chamber to see what more, if anything, we can do to tackle this horrible crime, which is a serious matter indeed for Scotland's farming community.

Joan McAlpine (South Scotland) (SNP): Over the weekend, NFU Scotland warned that, post-Brexit, moving from our existing share of European farming support to a Barnett share would

"effectively halve the sum coming to Scotland, and would be catastrophic for our farming and crofting sectors."

Does the Scottish Government share that concern, given that the loss is estimated at £250 million a year?

Fergus Ewing: The member is correct that, at the weekend, senior farming representatives in Scotland said that unless the funding is maintained, the risk is that if a Barnett share was applied, it would

"effectively halve the sum coming to Scotland, and would be catastrophic for our farming and crofting sectors",

with a loss of up to £250 million.

I met Michael Gove on Monday and sought written assurances on the pre-Brexit referendum pledges made by Mr Gove and many of his Brexiteer colleagues that funding would be matched. It is time to deliver on those pledges but, 18 months after the referendum, we still do not have such categorical assurances. I made it clear to Mr Gove in a frank and workmanlike discussion on Monday that such a categorical assurance must arrive without any further delay. Anything less is utterly unacceptable.

Rhoda Grant (Highlands and Islands) (Lab): Given that the Scottish Government is taking measures on tagging and the traceability of sheep, is it making that information available to Police Scotland when the police are trying to find those who are stealing sheep? How can traceability in the food chain be used to make sure that such sheep cannot be sold on?

Fergus Ewing: Ms Grant raises a sensible point. The underlying principle is that any available evidence that could help to bring to justice those who perpetrate such crimes should be available to the police and the independent prosecution

authorities. I will therefore look into the matter with the law officers and report back to Ms Grant.

Mental Health Care

6. Annie Wells (Glasgow) (Con): To ask the Scottish Government what action it is taking to improve mental health care provision for children and young adults with learning disabilities and autism. (S5O-01310)

The Minister for Mental Health (Maureen Watt): A key section in the mental health strategy deals with prevention and early intervention, and a range of actions in the strategy are aimed at ensuring that children and young people, including those with a learning disability and/or autism, have good mental health and that agencies act early enough when issues emerge and impact on young lives.

In addition, the Scottish strategy for autism has developed a menu of interventions, including advice, therapeutic interventions and counselling for children, young people and adults with an autism spectrum disorder. The menu helps to support professionals and people with autism, their parents and carers to identify the advice and support that are available, and it sets out the referral and assessment process for all other services and interventions.

Annie Wells: Scotland currently has no in-patient facilities that provide the specific psychiatric care that is required for children or young people with learning disabilities or autism. A national working group was set up last year to look at developing proposals for learning disability in-patient facilities and, in the mental health strategy for 2017 to 2027, the Scottish Government stated that it would support work on the in-patient needs of such children.

What stage is that work at and when can we expect the findings? Can the minister give any detail of the findings—particularly the number of psychiatric in-patient beds that will be recommended for children and young adults with learning disabilities and autism?

Maureen Watt: The learning disability and autism in-patient unit is in the early planning stages, and a report by the short-life working group is due in March 2018. Health boards continue to provide learning disability child and adolescent mental health services to those who require them, including a range of forms of specialist support in the community. If in-patient services are required, a range of options are available to boards, including admission to one of the three CAMHS in-patient units in Scotland or, if necessary, admission to a specialist learning disability CAMHS in-patient unit in England.

General Practitioner Contract

7. Anas Sarwar (Glasgow) (Lab): To ask the Scottish Government what progress it is making with the GP contract. (S5O-01311)

The Cabinet Secretary for Health and Sport (Shona Robison): We continue to negotiate a new general medical services contract with the British Medical Association's Scottish general practitioners committee. The talks are progressing well. We intend these commercially sensitive negotiations to conclude in 2017, to enable a new contract to be implemented from April 2018.

Anas Sarwar: The Royal College of General Practitioners tells us that GP practice funding has been cut by more than £1 billion by the Government. It also reports that we are on course to be 600 general practitioners short by 2021. Currently, one in three GP practices report a vacancy. That shows how crucial the GP contract process is. What process will there be not only for GPs to be engaged in the GP contract process but also the wider health sector and all professions and stakeholders too?

Shona Robison: Anas Sarwar will be aware of the commitment to invest £500 million in primary care over this session of Parliament, £250 million of which will go to direct support of general practice. In 2017-18 alone, an investment of £71.6 million is going into general practice to address many of the issues that Anas Sarwar raises, particularly in relation to recruitment and retention.

The GMS contract is hugely important in setting the direction of travel for general practice and primary care towards a multidisciplinary model, with the GP at the heart of that as the clinical expert in the multidisciplinary team.

As I said in my initial answer, the contract negotiations are at a sensitive stage, but the wider issues about the multidisciplinary team are being discussed with a wide range of other health professionals and with the public, to make sure that the public understand the new multidisciplinary model and the range of health and social care professionals who will support it.

The Presiding Officer (Ken Macintosh): Before we turn to First Minister's questions, members will wish to join me in welcoming to the gallery Elin Jones AM, Llywydd of the National Assembly for Wales.

First Minister's Question Time

Land and Buildings Transaction Tax

1. Ruth Davidson (Edinburgh Central) (Con):

Does the First Minister think that a tax policy that brings in £55 million less than forecast is a good one? (S5F-01564)

The First Minister (Nicola Sturgeon): I assume that Ruth Davidson is referring to land and buildings transaction tax, which is the property tax that was introduced when powers transferred to the Scottish Parliament.

Revenues that were raised in 2016-17, which is the most recent financial year, were actually 14 per cent higher than the revenues that were raised in the previous year. Yes—the revenues that were raised were lower than forecast, but that is not in any way unique to Scotland. If we look at the corresponding tax in the rest of the United Kingdom—stamp duty—revenue was 8 per cent lower than the Office for Budget Responsibility had forecast.

The issues have arisen mainly because it is difficult to predict transaction taxes but, of course, the revenues that have been raised also reflect the general economic conditions, property prices generally and—as the Scottish Fiscal Commission said in relation to LBTT—the situation in Aberdeen and Aberdeenshire.

Ruth Davidson: I was, indeed, talking about LBTT. Let us go through the numbers for Scotland.

The Scottish Government expected £538 million to come from LBTT, but in the end only £483 million came in, which was a shortfall of £55 million. According to property experts, that was due to a considerable drop in activity because of the tax.

Let us see whether we can get some clarity from the First Minister. Early in the summer, her Cabinet Secretary for Finance and the Constitution said:

"I'm not an ideologue on this issue. We want the tax to function well and if there's a case that an amendment of the current bands could help stimulate the housing market in that range, and the revenue it raises, then I will consider it."

With a £55 million shortfall in a housing market that is "in serious slowdown", has not that case now been made?

The First Minister: We will, of course, bring our decisions for the tax, and for all taxes for which we are responsible, to be scrutinised by Parliament in our budget.

Let us get into the detail of Ruth Davidson's question. She talked about a "shortfall". The £483

million that was raised in 2016-17 was, as I have said, actually 14 per cent higher than the revenues that had been raised in the previous year. That means more revenue being brought into use for public spending.

Ruth Davidson wants to give the impression that a shortfall against a revenue forecast is somehow uniquely to do with the structure of the tax in Scotland. Perhaps she will therefore explain why, on a like-for-like basis, there was in the rest of the UK an 8 per cent shortfall from the OBR forecast.

Let us get into the heart of the suggestions that Ruth Davidson has made. The claim is that the shortfall is because of the rates of tax at the top end of the property market. Unfortunately for Ruth Davidson—who, as we have seen in recent weeks, does not always do her homework on the issues that she raises at First Minister's question time—the facts tell a different story. Let us look at the data to the end of August this year. Sales of properties that are valued between £325,000 and £750,000 are up by 14 per cent annually. Sales of properties that are valued above £750,000 are up by 10 per cent annually. The monthly revenues for August of this year in both property brackets were at the highest levels since LBTT was introduced.

I have an additional bit of information for Ruth Davidson. Transactions and revenues at the top of the market are actually maintaining their share of the overall market.

So, yes—predicting transaction tax revenue is notoriously difficult to do, as is shown not just in Scotland but south of the border, but revenues in the year that we are talking about are up on the previous year, and the claims that Ruth Davidson is making about the top end of the market are simply not borne out by the facts. Why cannot she just concede that, and perhaps do a bit more research and homework in the future?

Ruth Davidson: The First Minister excels in pretending to answer a question that was not asked, but let us talk about homework. If the First Minister had done her homework, she would have listened to Nicola Barclay, who is the chief executive of Homes for Scotland. I am going to read out quite a lengthy quotation from her, which I hope I have latitude for from the Presiding Officer, because of my first two short questions. She said:

"As we have expressed in submissions to the Scottish Government and Scottish Parliament, if we are to have a healthy and well-functioning housing market, we need a tax framework that enables movement up and down all price levels. However, feedback from our members shows that the present system (which varies considerably from that south of the border) is creating significant barriers."

Here is a thing: the Scottish National Party was warned repeatedly that that would happen. Organisations including the Scottish Property

Federation made it clear that the tax rates would gum up the market and reduce revenues, which is exactly what happened. This week, a specific proposal has been put on the table by Homes for Scotland, which wants to make it easier for families to move up the property ladder, and is proposing to extend the 5 per cent band to help them. I will back that proposal. Will the First Minister?

The First Minister: We will bring forward proposals in our budget, which is the right and proper way to proceed.

However, let me pick up on a few things that Ruth Davidson said. First, I am not sure what question she was asking me, if it was not the one that I answered. I gave a very detailed answer to her question. I do not want to repeat everything that I have just said, but the point is that what Ruth Davidson is saying is not borne out by the facts. I have just quoted figures that show that property sales and transactions in the brackets at the top of the property market are not declining, as Ruth Davidson said, but are actually increasing by 14 per cent and 10 per cent, respectively: an increase, not a decrease. It therefore seems to me that the whole premise of Ruth Davidson's question has crumbled before her very eyes.

However, we come to a broader issue—one that has surfaced in discussion at First Minister's questions in recent weeks. We hear, day after day and week after week, Tory members coming to the chamber—sometimes declaring their business interests, but sometimes not—calling for extra spending, but again today we have the Tories also calling for a cut in tax for the very wealthiest people in our society. The Tories' sums simply do not add up.

So, Ruth Davidson has been wrong in her central claims today and—yet again—the Tories have absolutely been found wanting. They want us to spend more, but they also want us to cut taxes. They cannot have the best of both worlds.

Ruth Davidson: I do not even know how you lot are going to pick through all the things that were not said and have been claimed there, but let us go back to the numbers. [*Interruption.*]

The Presiding Officer (Ken Macintosh): Order.

The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney): That is not on.

The Presiding Officer: Order, Mr Swinney, please. Ms Davidson knows that "you" refers to the chair, not to the press gallery.

Ruth Davidson: Absolutely.

Let us get back to the numbers, because the First Minister says that they went up, not down. However, the embarrassment for the SNP is that the shortfall would have been much worse if it had not adopted wholesale the Tory proposal for the new surcharge on buy-to-let and second homes. The First Minister talks about raising revenue, but there was £100 million, right there. That was not the SNP's idea: it was ours. On the very first new tax that has been administered by the Government, the First Minister has got it completely wrong. She gummed up the housing market, she blew a £55 million hole in her own budget, which would have been three times worse if she had not picked up the Tory policy on buy-to-let and second homes, and, more important, she squeezed Scottish families out of their first proper homes. Does that sound like competency to her?

The First Minister: We can always tell that Ruth Davidson is floundering at First Minister's question time when she starts hurling abuse across the chamber—although it has nothing on the abuse that was hurled at me and others by the Tory councillor who was taken off the teaching register because of her behaviour. Ruth Davidson will probably not want to comment on that.

I am not sure what bit of this Ruth Davidson is struggling to understand. As far as people at the bottom of the housing ladder who are looking to own their first homes are concerned, we have reduced the tax burden, because we have made LBTT more progressive than stamp duty ever was—although progressive taxes are clearly offensive to Tory members.

We have a situation in which LBTT revenue is up—it is up, not down—on the previous year, and in which transactions at the top of the market are up—again, I say that they are up, not down—so the whole premise of Ruth Davidson's question is absolutely flawed. We will continue to put forward progressive proposals that help those who are most in need of help at the bottom, and that make sure that those who have the broadest shoulders pay a fair share.

As I said, I know that the principle of progressive taxation is one that Tory members do not like, but it is one that SNP members will continue to adhere to.

The Presiding Officer: Question 2—Alex Rowley. [*Interruption.*] Order, please.

New Housing Development

2. Alex Rowley (Mid Scotland and Fife) (Lab): A few weeks ago, I met—

Tom Arthur (Renfrewshire South) (SNP): The microphone is on. [*Laughter.*]

Alex Rowley: I am going to talk about a serious issue, so I ask that I be given the courtesy of being allowed to do so.

When I met a housing development company a few weeks ago, it raised with me a live application that it has for 900 new houses to be built. The developer had hoped that the application would have been determined by last Christmas but, as yet, it has not been. The developer did not complain about the planning process holding up the work; the problem is the lack of front-loaded capital that is needed to build a new £8 million school as part of the section 75 agreement. The developer cannot afford to front-load that level of investment, nor can the council. I was told that that is not uncommon and that the issue is a real barrier to new housing being built.

Does the First Minister recognise the problem? Does the Government have any plans to address it and get new housing development happening across Scotland?

The First Minister (Nicola Sturgeon): I thank Alex Rowley for raising that issue. I am sure that he appreciates that, without further detail of the project and the application that he is talking about, there will be a limit to what I can say by way of a detailed response. If he wants to share more detail with me today or write to me after First Minister's question time, I will make sure that the matter is properly looked into. That said, if the application is live, there will be a limit to what I can say, because due process must take its course.

The general issue that Alex Rowley raises is one that I recognise and one that the Scottish Government works to address. There are often limitations around infrastructure when there is a desire for housing developments to go ahead. That is why the Scottish Government introduced the housing infrastructure loan fund, which is specifically designed to deal with those limitations and bring about the provision of the infrastructure—whether that is schools, hospitals or health services—that is often required to support new housing development.

We will continue to take action to address those concerns and, as I said at the outset of my answer, if Alex Rowley wants to provide me with more detail on the application that he is talking about, I can make sure that that is fully looked into and we can consider whether there is any more that the Scottish Government can do to assist.

Alex Rowley: It was the general principle that I was asking about. I highlighted one case, but I am told that such situations are not uncommon. The lack of infrastructure is holding up development.

Private sector new build is one part of meeting housing need in Scotland. However, the number of people who live in the private rented sector has

risen dramatically over the past two decades. With little regulation, rents have also shot up in the sector. The cost of rents often bears no relation to the condition and value of the properties that are being rented. Indeed, the Joseph Rowntree Foundation has said that the proportion of people who are classed as being in poverty who live in the private rented sector has almost tripled.

Does the First Minister recognise the issue? Is she willing to look at what can be done to address it? Will she consider some form of rent controls?

The First Minister: Alex Rowley will recall that in the previous session of the Parliament, if memory serves me correctly, legislation was enacted that allows action to be taken where local authorities consider that there are problems with excessive rent increases. The Parliament has already acted to introduce some form of rent control provision.

Of course, we will always consider whether there is a case to go further, because, as Alex Rowley rightly said, and as we saw from the Scottish household survey, which was published just this week, the number of people who are living in private rented accommodation is increasing, and it is important not just that private rented housing remains affordable for people but that we take action to ensure that such housing is of a high quality. As someone who represents an urban constituency, I am very well aware of the importance of both those things.

On housing generally, we are investing record sums, as I hope that members across the chamber acknowledge. Over the course of this parliamentary session, we will invest £3 billion in creating 50,000 more affordable homes. On house building completion, we are building houses at a faster rate than any other part of the United Kingdom is doing.

That is the record of this Government, and we will continue to do everything that we can to build on it.

Alex Rowley: I have continued to welcome what has been getting done, but given the scale of the housing issues, we clearly need to do more.

We are moving towards winter, when the poorest people, in the poorest housing, face the greatest challenges. Energy Action Scotland says that as many as a third of private rented sector tenants in Scotland are in fuel poverty—almost double the figure for people who have a mortgage. The Government has said that it will introduce a warm homes bill, and earlier this month I co-chaired a meeting with Jeane Freeman and the Convention of Scottish Local Authorities on benefit take-up. What else can be done to help the poorest people, in the poorest properties, this winter?

The First Minister: There is a range of things that can be done—and are being done by this Government. They include, first, continuing to talk to the power companies, to make sure that people, and particularly those on the lowest incomes, are given a fairer deal than has often been the case in the past.

Secondly, there is continuing action to improve the energy efficiency of our housing stock. This Government, unlike other Governments across the UK, has invested heavily in improving energy efficiency standards; a large number of homes have had energy efficiency measures installed, supported by Government funding. Also, we can make sure that we have in place fuel poverty targets that are helping to address the issue. That is why the warm homes bill to which we committed in the programme for government is so important.

Those are all vital issues. As I hope that Alex Rowley and others will acknowledge, this Government—I think that I can say this without fear of contradiction—is doing much more in the area than any other Government across the UK and will continue to do so.

The Presiding Officer: We have a number of constituency supplementaries.

NHS Tayside (Consultation)

Mairi Gougeon (Angus North and Mearns) (SNP): NHS Tayside is undertaking a consultation that could lead to the closure of the Mulberry unit, a mental health in-patient facility in my constituency in Angus. I have serious concerns, as do my constituents in Angus and Aberdeenshire—although they have not been consulted—that the consultation breaches Scottish Health Council guidance on major service changes. It offers no alternative to closure, is inaccessible and appears to be a box-ticking exercise. Will the First Minister commit to urgently investigating those concerns, to ensure that NHS Tayside meets its obligation to provide robust and transparent consultation?

The First Minister (Nicola Sturgeon): The health secretary will certainly relay to NHS Tayside the concerns that have just been expressed. In fairness, concerns about the nature of the consultation were raised with the Cabinet when we had one of our summer Cabinet meetings in Tayside. We will make sure that those concerns are raised and that the health board responds to them.

The proposals about the Mulberry ward and the Murray Royal hospital are part of a Tayside-wide review of adult mental health and learning disability services, which is being led by Perth and Kinross integration joint board on behalf of the partnership of the three IJBs in Tayside and NHS Tayside. It is important that people have

opportunities to feed in their views and that people have confidence and assurance that their views are taken seriously. The consultation is not yet closed: it runs until 3 October, and I encourage everyone with an interest to feed back their views.

The Presiding Officer: I would encourage members, including a couple of ministers at the back, to stop having conversations across the chamber.

Hear to Help Angus

Liam Kerr (North East Scotland) (Con): Staying in Angus and with NHS Tayside, I want to highlight hear to help Angus, which is a local lifeline service that helps more than 600 people in Angus who suffer from hearing loss and helps to deliver the vision outlined in the Scottish Government's health and social care delivery plan. In March 2017, Angus health and social care partnership rejected its funding application, and no other funding sources are forthcoming. The service needs £17,000 to survive; without it, it will close, probably by this time next week. Will the First Minister please urgently step in and ask NHS Tayside to save local provision by giving the service the £17,000 that it requires?

The First Minister (Nicola Sturgeon): Before I address the substance of the question, I should point out that the Conservatives are part of the administration of Angus Council, and I hope that these issues are being raised with the local council, too.

Projects such as the one that the member has talked about are really important. I am not aware of all the details of this particular project, but given that the matter has been raised with me in the chamber, I will make sure that it is looked into and that we have a relevant discussion with the council and the integration joint board. If there is anything further that the Scottish Government can do to help, we will certainly be happy to do so.

NHS Services (Skye)

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): To ask the First Minister what steps the Scottish Government believes NHS Highland should take to assure the people of Skye that services for the north of the island and Portree hospital in particular will be sustained long into the future.

The First Minister (Nicola Sturgeon): On Thursday 21 September, the health secretary met the leader of Highland Council, Councillor MacDonald from Skye and the chair and chief executive of NHS Highland to discuss services in Portree, and she made it very clear to the board that she expected Skye to receive a high-quality health service that meets the needs of all the

island. As part of that, commitments have been received from the board that out-of-hours and emergency cover at Portree hospital will remain. Moreover, the health secretary has consistently made it clear with NHS Highland that it must continue to engage meaningfully with local stakeholders as work proceeds, and she made that clear again when she met all parties last Thursday.

National Health Service Waiting Times (Paediatrics)

Daniel Johnson (Edinburgh Southern) (Lab):

In May, one of my constituents received confirmation that her 10-year-old daughter was on a waiting list to see a paediatric ear, nose and throat specialist. At the end of this month, concerned that the appointment might have gone missing in the post, she called the health board, only to be told that the waiting time for such appointments was now 18 to 20 months and maybe longer. Does the First Minister agree that nearly two years is far too long for a 10-year-old to wait to see a specialist? What is the Scottish Government doing to bring down these massive and frankly unacceptable waiting times?

The First Minister (Nicola Sturgeon): I agree with the member. Again, I do not know all the details of this case. If they can be passed to me, the Cabinet Secretary for Health and Sport will investigate the matter and discuss it with the health board.

As for the general part of the member's question, we are investing record sums in the health service and record numbers of people are working in it. We are undertaking important reforms to our health service to ensure that, as demand continues to rise—as it will do, because of the ageing population—we have the capacity in place to deal with it. We will continue to take action to support our national health service, but if the details of this particular case can be passed to me, I will be happy to have them looked into.

Air Departure Tax

3. Patrick Harvie (Glasgow) (Green): We already know who will benefit from the Scottish Government's proposal to cut aviation taxes; after all, 70 per cent of flights are taken by just 15 per cent of people. Those people tend to be the wealthiest, and they stand to gain more than £800 a year from this tax cut, while a couple taking their children on an annual holiday will save only £13.

We also know that people in Scotland understand that they will not benefit from it. When asked about the issue in an opinion poll, fewer than one in 10 people said that this tax cut would make a positive difference to their lives; the vast majority chose investment in public transport,

fixing potholes and better infrastructure. With Ryanair now being accused of persistently misleading passengers, I think that most people also know that we cannot really trust the airlines even to pass on the tax cut to passengers. Does the First Minister accept that people know what transport policies will meet their needs and that they do not rate this tax cut?

The First Minister (Nicola Sturgeon): I have set out in the chamber on many occasions why that particular proposal, which the Scottish National Party Government has had for many years now, is important, in terms of wider economic competitiveness and ensuring that the connectivity of our country supports business and economic growth. On the specific proposals, as I said earlier to Ruth Davidson on another issue, we will of course bring forward our budget proposals when we publish our draft budget later this year, and Parliament will scrutinise all aspects of that draft budget.

Another issue on air departure tax, which the Cabinet Secretary for Finance and the Constitution has shared with Parliament previously, is to do with the Highlands and Islands exemption. We have concerns about the compatibility with state-aid rules of the exemption that was introduced by the United Kingdom Government. We are discussing with the UK Government how that can be resolved, and we will keep Parliament updated on that.

Lastly, I want to refer to the current situation with Ryanair, which is deeply regrettable. I have serious concerns about the decisions that Ryanair has taken in the past couple of days, which will cause disruption to many passengers travelling between Scotland and London and, indeed, other destinations across Europe. The Minister for Transport and the Islands is writing to Ryanair to pass on those concerns. Of course, alternative flights are available. We also fully support the Civil Aviation Authority's launch of enforcement action, because it is vital that, at times of disruption, airlines provide full and accurate information to passengers about their rights.

Patrick Harvie: The First Minister talks about the economic basis for her policy, but we have already seen from parliamentary scrutiny that there is no coherent evidence base for it. This has been a bad week for the Scottish Government's transport policies in environmental terms. The UK Committee on Climate Change said that Scotland needs more action to meet its climate change plans, and it drew particular attention to the inadequate approach to transport emissions. Aviation emissions are now 82 per cent higher than the baseline against which everybody else is trying to cut Scotland's emissions, but the Scottish Government wants to boost that most polluting

transport mode of all. The Fraser of Allander institute has warned that the policy will just lead to more tax competition and a “race to the bottom”, and ultimately to less public revenue for services everywhere throughout these islands.

The policy is unwanted, unnecessary and unsupported by any evidence. Is it not time to dump it once and for all?

The First Minister: Patrick Harvie and I have a long-standing difference of opinion on the issue and, as I said, we will bring forward our budget proposals in due course. However, I am glad that he mentioned the report of the Committee on Climate Change because, although it encouraged us to go further and faster, it also said that Scotland is leading the UK and indeed the world on action to tackle climate change. Of course, the programme for government that I outlined in Parliament just a few weeks ago included proposals to double financial support for active travel and to phase out new petrol and diesel vehicles by 2032, which is eight years ahead of the target for the rest of the UK. Later this year, we will announce the first low-emission zone, and we have outlined plans to have low-emission zones in all our major cities by 2020.

Across a range of transport issues, we are taking action to reduce emissions and to meet our climate change targets as they are now, and the even more ambitious targets that will be set for the future.

Nuclear Weapons

Bill Kidd (Glasgow Anniesland) (SNP): What engagement does the Scottish Government undertake with the Scottish Campaign for Nuclear Disarmament? What position does it hold on the Treaty on the Prohibition of Nuclear Weapons, which was recently successfully passed at the United Nations?

The First Minister (Nicola Sturgeon): I support that treaty. I want to see a world free of nuclear weapons and I think that countries such as the United Kingdom should lead by example. Instead of spending tens of billions of pounds on a new generation of Trident nuclear missiles, we should get rid of Trident nuclear missiles from the Clyde. We will continue to support action for unilateral nuclear disarmament because, if countries lead by example, the world will be a safer place in the long term as a result. We will support action on that internationally from the UN and elsewhere, because it is the right thing to do morally, financially and for practical reasons.

Scottish Fire and Rescue Service (Attendance at Medical Emergencies)

4. Richard Lochhead (Moray) (SNP): To ask the First Minister what discussions the Scottish Government has had with the Scottish Fire and Rescue Service regarding it attending medical emergencies, in light of reports that trials of this service will end due to a dispute over pay and conditions. (S5F-01568)

The First Minister (Nicola Sturgeon): The Scottish Government is not a direct participant in negotiations with the Fire Brigades Union. The employer is the Scottish Fire and Rescue Service, which conducts negotiations as part of the United Kingdom-wide National Joint Council for Local Authority Fire and Rescue Services. The Minister for Community Safety and Legal Affairs last met the chief fire officer and the chair of the Fire and Rescue Service on Tuesday, when she shared their disappointment that involvement in the medical emergency trials has been suspended, and encouraged continued discussions.

The Scottish Ambulance Service prioritises patients with immediately life-threatening conditions and will take all appropriate measures in those areas where the out-of-hospital cardiac arrest trial has been taking place to ensure that it continues to respond to emergencies without delay.

Richard Lochhead: I am sure that the First Minister will agree that the trials have been a big success, given that in the first year, firefighters have made 41 potentially life-saving interventions.

Is the First Minister aware of the campaign that is being led by my constituents Mr and Mrs McKandie, who lost their son, Keiran, in a tragic road traffic accident when he was out cycling? They have been calling for firefighters to attend medical emergencies as they can be closer than the nearest ambulance. They want to see a change in policy as part of Keiran’s legacy. Understandably, they are shocked that a pay dispute can get in the way of saving lives and they want to see the co-responding of emergency services to all road traffic accidents.

Does the First Minister agree that we need a solution that respects the views of the firefighters who want to continue to deliver this vital service without delay and for co-responding to become standard throughout Scotland, to save even more lives?

The First Minister: I agree with all of that. I am aware of the campaign by Mr and Mrs McKandie, who are greatly to be admired for their efforts, following the tragic loss of their son, to promote improvements in the way in which services respond to emergency incidents. I agree wholeheartedly that the medical emergency trials are an

excellent example of public services working more closely together to achieve a common aim and to improve the service that is provided to the public.

As I said in my previous answer, the community safety minister has encouraged continued discussions on pay. We want to see our fire service workers paid appropriately. I am aware that the chief fire officer has written a letter to the Fire and Rescue Service staff asking for discussions to continue on a proposal that is in the best interests of firefighters and communities. I encourage all sides to do all that they can to resolve the issue without further delay.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Can the First Minister provide details on the operational budget provided to Scotland's Fire and Rescue Service?

The First Minister: As I said at First Minister's questions last week or the week before, there has been an increase in the resource budget for the Fire and Rescue Service of—if memory serves me correctly—about £20 million. We will continue to support our front-line firefighters, who do an outstanding job on behalf of us all. It is right that the service is appropriately supported and that firefighters are given the rewards that they deserve.

“Reducing emissions in Scotland - 2017 Progress Report to Parliament”

5. Donald Cameron (Highlands and Islands) (Con): To ask the First Minister what the Scottish Government's response is to the Committee on Climate Change's report, “Reducing emissions in Scotland - 2017 Progress Report to Parliament”. (S5F-01574)

The First Minister (Nicola Sturgeon): I welcome the committee's report, which recognises that Scotland's ambition on climate change is amongst the highest in the world. It also recognises our strong progress to date, with statutory targets being met for the second consecutive year, and notes that we continue to lead the UK.

We will take time to reflect fully on the committee's report as we finalise the climate change plan in preparation for publication early next year. We know that even more needs to be done to continue to meet our challenging targets. That is why the programme for government set out bold new commitments in areas such as low-carbon transport, infrastructure and energy efficiency.

Donald Cameron: It has already been pointed out today that around a third of households in Scotland are in fuel poverty. In light of that and given the fact that, a week ago, the Scottish Parliament marked Scottish housing day, will the

First Minister commit to Scottish Conservative proposals to ensure that every home in Scotland achieves an energy performance certificate rating of C or above by 2030?

The First Minister: We will continue to take action to improve the energy efficiency of our housing stock across all tenures. We set out further ambition on that in the programme for government.

To go back to what I said to Ruth Davidson, that sounds very much like, yet again, the Tories coming to the Parliament and calling on us to spend more money at the same time as calling for tax cuts for the richest in our society. Increasingly, the Tories have no credibility on any of those issues and while they continue to take that contradictory stance, their credibility will continue to sink.

Claudia Beamish (South Scotland) (Lab): The agriculture sector is a heavy greenhouse gas emitter. The United Kingdom Committee on Climate Change's report said:

“There has been little recent progress in reducing agricultural emissions”.

It also said—yet again—that

“the Scottish Government should look again at going beyond the voluntary approach.”

I am a member of the Environment, Climate Change and Land Reform Committee. We said that compulsory soil testing is a vital stepping stone in changing behaviours on farms and that that measure should be in the final climate change plan. In my view, the measure should be introduced with support and build on the good practice in the agriculture sector. Will compulsory soil testing be in the final plan? Should each minister be answerable to Parliament for changes in their portfolio in the context of this vital issue?

The First Minister: I will respond to a couple of the points in the member's question. First, soil testing in the agriculture sector is hugely important. That sector will play a big part in helping us to meet our climate change targets, but it is important to point out that voluntary soil testing already has a high take-up. As we go forward, we need to do more to encourage that take-up to increase even further.

Secondly, the member makes a fair point about the responsibility across Government for meeting our climate change targets. The environment secretary has principal responsibility around the Cabinet table for meeting those targets, but she cannot do that without the support of every other member of the Government. Each and every one of us should be accountable in our portfolio areas—for me, that is all portfolio areas, obviously—to Parliament and the wider public for

doing that. We will meet the targets only if we take the action required across our electricity and wider energy sector, our transport sector, which Patrick Harvie has just mentioned, and the agriculture sector.

My final point relates to the climate change plan. We will publish the final plan early next year. We have consulted on the draft and are considering the responses to that consultation. I am not going to say what will be in the final plan, because we have to go through due process. However, I assure Parliament that the plan will be ambitious. It will allow us to meet the current targets that we have set, but we have the forthcoming climate change bill to consider, which will set even more ambitious targets.

We continue to lead not just the United Kingdom, but the world in our ambition, and all of us have a responsibility to make sure that the action that we take allows us to meet that ambition in the years ahead.

Emma Harper (South Scotland) (SNP): Will the First Minister provide detail on how long-term emissions reductions in Scotland compare with the reductions in the rest of the UK? Does she agree that Scotland continues to be considered to be a leader in tackling climate change?

The First Minister: We continue to outperform the rest of the UK on delivering long-term emissions reductions. The most recent statistics show that Scottish emissions are down 37.6 per cent from baseline levels, which compares to a reduction of 35.4 per cent for the UK as a whole. Among the EU15 countries, only Sweden and Finland have done better than Scotland.

We have sustained progress against world-leading targets. As I have just said, we are committed to strengthening our targets further with a new bill in direct response to the Paris agreement. Scotland is at the forefront of international climate action.

Our leadership on the issue has been widely recognised, including by the head of the United Nation's climate body and the chair of the independent UK Committee on Climate Change. Although we should be proud of that, we should continue to challenge ourselves to go even further.

National Concessionary Travel Scheme

6. Richard Leonard (Central Scotland) (Lab): To ask the First Minister whether the Scottish Government will give a commitment in the week of international day of older persons that eligibility criteria for the national concessionary travel scheme will not change during the current parliamentary session. (S5F-01595)

The First Minister (Nicola Sturgeon): We will continue to ensure that our national concessionary travel scheme benefits those who rely on free bus travel, which is why we are asking people across Scotland for their views on how best to ensure that the bus pass is sustainable for the long term.

The consultation is just that—no decisions will be made until all the responses have been fully considered. Whatever the outcome, nobody's bus pass will be taken away from them and, indeed, some people who do not currently qualify for a bus pass will do so in the future.

Richard Leonard: I thank the First Minister for that answer. It is true that, in her programme for government, there is a commitment to continuing the concessionary travel scheme, which was introduced by a Labour-led Scottish Executive. However, that commitment is qualified by the phrase

"while ensuring the scheme is sustainable in the longer term."

Will the First Minister confirm today that there will be no raising of the qualifying age, no administrative charges implemented, no one-off payment required, no means testing and no other barrier introduced that will prevent all those aged 60 and over from accessing the scheme?

The First Minister: I know that Scottish Labour has somewhat lost touch with reality, but is Richard Leonard really suggesting that we should have a scheme in place that is not sustainable for the long term? It is because we value the bus pass scheme and want to see it continue to benefit people right across Scotland that we are having the consultation to make sure that it is sustainable for the long term and that people long into the future can continue to enjoy the benefits of it.

That really is the difference between the SNP and Labour. We fight for Scotland. Scottish Labour just fight among themselves. It was incredible yesterday, was it not? We had Richard Leonard accused by Jackie Baillie of betraying every value that Labour holds dear, and then we had Richard Leonard saying that this was just the latest Jackie Baillie—

The Presiding Officer: First Minister—

The First Minister: I cannot actually say it, Presiding Officer. Let us just say that it is a description that covers much of what Jackie Baillie says in the chamber.

The Presiding Officer: First Minister, the question was about national entitlement cards.

The First Minister: The serious issue is this. This Government continues to take the decisions that are in the interests of the people of Scotland. By contrast, Scottish Labour's behaviour is selfish

and self-indulgent, and it proves that it is not fit to be an Opposition, let alone a Government.

James Dornan (Glasgow Cathcart) (SNP): I am delighted that the First Minister has confirmed that all those who currently have a bus pass will continue to receive one. Can she also confirm to me that those who obtain one before any changes may be made will continue to receive it? Can she update me and the Parliament as to the current total number of older and disabled people who benefit from free travel with the national entitlement card and how that compares with the number when this Government entered office after a Labour Executive being in place?

The First Minister: Thousands of people across Scotland are benefiting from the scheme, and we want to make sure that they continue to benefit from it. As well as giving the guarantee that everybody who has a bus pass and everybody who gets a bus pass before the end of the consultation will continue to have it, we have also set out plans to extend eligibility to apprentices—to young people who are making their way in the world—to help them with the costs of travel as well.

This Government will continue to protect such schemes, which are about helping people across the country. That is in stark contrast to a Tory party that is all about tax cuts for the rich and a Labour Party that only wants to fight amongst itself.

Mike Rumbles (North East Scotland) (LD): I ask the First Minister whether she is aware of Roseanna Cunningham's statement just yesterday, in which she said:

"encouraging behaviour change that moves people out of cars and into efficient and low-emission buses ... will help to reduce congestion and emissions at the same time."—[*Official Report*, 27 September 2017; c 21.]

That is a win-win situation for everybody. Are the Government's environmental and transport strategies aligned? Are we getting joined-up Government with them?

The First Minister: The short answer is yes. Obviously, I am very well aware of Roseanna Cunningham's statement yesterday—I thought that it was an excellent statement—in which she set out the action that we are taking in the transport sector to help to meet our climate change obligations. Indeed, I think that today, or very shortly, we will announce additional funding through the green bus fund, which is helping to ensure that we have low-emission buses on our roads as well.

It is absolutely right—for once, and I concede that it is a rare occasion, I agree with Mike Rumbles—to say that getting people out of cars and into buses is one of the most important things

that we can do to reduce congestion and lower emissions. That is why the bus pass scheme is so important, but it is also why all the other actions that I have spoken about, around electric vehicles, low-emission zones and doubling the active travel budget, are so important as well.

Worker Ownership

The Deputy Presiding Officer (Christine Grahame): The next item of business is a members' business debate on motion S5M-07165, in the name of Richard Leonard, on the importance of worker ownership to the Scottish economy. The debate will be concluded without any question being put. Those members who wish to speak in the debate should press their request-to-speak buttons.

Motion debated,

That the Parliament recognises the contribution made to the Scottish economy by worker-owned companies such as Clansman Dynamics and Novograp in Lanarkshire; notes their expansion since the change in ownership; welcomes the commitment by the previous owners to the transfer to worker control and ownership, and notes calls for other business owners to consider an employee ownership and control model in their succession planning.

12:46

Richard Leonard (Central Scotland) (Lab): Today, we face a state of affairs in which we are witnessing a growing centralisation and a growing concentration—I would argue that it is a growing overconcentration—in the ownership of Scotland's economy.

Too much power rests in too few hands, and, increasingly, that power rests in boardrooms that are thousands of miles away, with more than a third of Scotland's economic and industrial base now overseas owned. There is nothing intrinsically wrong with foreign direct investment, which can bring innovation, investment and employment. However, all too often, it is the result of mergers and acquisitions, including, in recent years, the acquisition of public utilities that we, the people, used to own—a transfer of ownership, rather than the source of new investment.

If our economy becomes—as it is increasingly becoming—a branch-plant economy, the result will be that we are more vulnerable to international shocks. The truth is that economic ownership matters, because with economic ownership comes economic power. If we are to achieve, as I believe we must achieve, a redistribution of wealth and power to the many from the few, decisive action will be required to challenge and change the ownership structure of our economy. That is why it is time that we put in place a Scottish investment bank that is worthy of the name, working as a proactive agent of economic change, investing patient capital and taking strategic public interest shares in private companies.

It is also time that we put in place different frameworks and ownership structures to build up business resilience to takeovers and to build in greater democracy and accountability in our

economic system. It has long been my view that, in order to do that, it is time to promote direct employee and worker ownership in the Scottish economy.

I am therefore delighted to bring the debate to Parliament and to have secured some cross-party support for it, so that together, in this Parliament, we can all recognise the contribution that is made by employee-owned companies to the Scottish economy in the present and consider the even greater contribution that worker-owned businesses could make with a bit more support from the Parliament in the future.

The motion that we are debating was prompted by my recent visit to two employee-owned firms in East Kilbride: Clansman Dynamics and Novograp. One is now well-established as a worker-owned business and one is just starting out on that journey. In both cases, the catalyst for the transfer of ownership was the far-sightedness of the existing owners. In each case, the owners were looking for a succession plan that did not entail selling up the business only to see the assets stripped, the order book stolen and the local jobs lost for ever. To their great credit, the owners believed that they had a moral obligation to the working women and men who, with them, had built those businesses up.

The question for Parliament is this: what can we do to put that radical idea into action more widely? Can we make that moral obligation on some a legal obligation on all? How can we move the idea from the fringes to the mainstream of our economy?

What can we learn from international experience? In Italy, the Marcora law, introduced in 1985, gives workers whose business faces closure a statutory right to buy the company. Alongside that legal right is funding from the state to match a contribution from the workers. In France, the social and solidarity economy law, passed in 2014, gives legal recognition and incentives to workers to buy the business that they work in when it is to be sold off. In the Basque country of Spain, Mondragon has been a shining beacon of co-operative ownership for six decades. More than 83,000 workers are employed in over 250 worker-owned enterprises, where surpluses are reinvested in the business rather than redistributed to absentee shareholders, with the result that jobs have been retained during the current economic slump.

I say this: in Scotland, which was home to the Fenwick weavers, and where Robert Owen wrote "A New View of Society" and established New Lanark, why should we not set ourselves the ideal—the goal—of becoming the Mondragon of the north? Let us have a vision of Scotland as a northern European beacon of co-operation. If we

can have a community right to buy land, why can we not have a workers' right to buy business? Why should those who create the wealth not have a right to own the wealth that they create? Support for that idea, whether as a statutory right of first refusal for workers when an enterprise is put up for sale or facing closure, or simply its wider promotion on a voluntary basis, will demand a better resourced and more powerful Co-operative Development Scotland, with access to investment and technical support and with statutory underpinning from this Parliament.

There are sound industrial and economic reasons to promote worker ownership, boost employment and forge a sustainable alternative to footloose and speculative capital ownership. There are underlying political and social reasons, too. A century ago, GDH Cole declared that if democracy "is good in the State and local government, it is good ... in industry also."

I believe that we need industrial and economic as well as political democracy. We can and we must build a future in Scotland that is based on equality and greater common ownership. It is a future that working people across this country, who all too often encounter drudgery, alienation and exploitation at work, will strive for and reach out for, because it is a message of hope and a message of change, and real hope and real change are what I believe the people of Scotland expect this Parliament to deliver.

12:53

Maree Todd (Highlands and Islands) (SNP): I thank Richard Leonard, because I am delighted to have the opportunity to explain why we have embraced the employee-ownership model in the Highlands and Islands and to talk about some of the thriving businesses that we have as a result, such as Aquascot, Hebridean Jewellery, Highland Home Carers, Shetland Vets and the *West Highland Free Press*. The northern beacon that Richard Leonard spoke about already exists—we just all need to look north.

In the Highlands and Islands, we have two of the biggest employee-owned businesses in Scotland. Aquascot—the largest by turnover—is a sustainable seafood business with a turnover of £45 million and around 180 employees. Highland Home Carers—the largest by number of employees—is the largest provider of care at home in the Highland area and employs more than 500 staff.

Employee ownership has a specific role to play in the fragile economy of the Highlands and Islands. Before going down the employee-ownership route with Aquascot, Dennis Overton looked at the history of entrepreneurial start-ups in

the Highlands. Going back to 1960, it was found that only a few businesses had achieved a turnover of more than £20 million at 1990 values, that most founders exited by way of a trade sale, and that the majority of the businesses had disappeared within five years, usually through consolidation with operations in the south. Because of that, Highlands and Islands Enterprise is currently putting significant effort into raising awareness of employee ownership, which is why I am particularly grateful to have the opportunity to speak today.

The model is about successful businesses. Independent research suggests that a combination of shared ownership and employee participation delivers superior business performance. Productivity in the United Kingdom workforce as a whole might be flat, but when a business becomes employee owned, productivity is boosted by 5 to 10 per cent and is sustained at the higher level—it is not just a temporary boost. Research shows that those businesses grow well, even in tough times, and, at the moment, the employee-owned sector contributes £30 billion in gross domestic product to the UK economy annually.

There are a lot of misconceptions about the business model, so I will take the opportunity to bust a few myths. Employee ownership is not necessarily about saving failing companies; it is about successful business. Although a common reason for a business becoming employee owned is retirement, some folk choose the employee-ownership model long before retirement because of the benefits to the business and staff.

The transaction does not need to be complex. As members can imagine, everyone tends to be on the same side so there is less conflict and a generally more co-operative transition. Further, it is not too expensive for employees to afford. Shares that are bought by a trust on behalf of employees can be funded by contributions from the company itself or by a loan that is paid for by the company. The vendor does not need to sell at a lower price, so there is no reason why a carefully considered employee buy-out cannot deliver a fair price that is in line with the company's market value.

One reason why we like the model so much in the Highlands and Islands is that it keeps profits and jobs in the local economy. Companies can protect the location and the ethos of their business following succession, which is what happened with Highland Home Carers. The founder did not want the company to be swallowed up by one of the national providers or its core values to be diluted and its high care standards to be compromised.

With this business model, employees share in the profits and bonuses, which increases spending locally and boosts the local economy. I love the

egalitarian aspect of the model, in which every shareholder from factory floor worker to managing director gets the same tax-free bonus.

I have mentioned Aquascot a couple of times and I would love the minister to visit and see for himself the difference that employee ownership makes. This month, Aquascot won the Highlands and Islands—

The Deputy Presiding Officer: I am sorry, but you must conclude, and that is the place to stop, because the minister was nodding and accepting your invitation.

Maree Todd: Employee ownership is good for business, it is good for the local people who work in the business and it is good for the local economy. I have no doubt that, in the future, Scotland will be inclusive, fair and prosperous, and that that business model will help.

The Deputy Presiding Officer: I have been more than generous in giving you that little bit of time at the end.

I know that Jackie Baillie has to be away sharp to get to something.

12:58

Jackie Baillie (Dumbarton) (Lab): I do—thank you very much, Presiding Officer. I will be as brief as I can.

I congratulate Richard Leonard on securing the debate. Diversity in the economy is a good thing and it is very good for economic growth. I will illustrate that with evidence because, if all that we do in Parliament is to consider the evidence, here it is.

The UK employee-ownership index compares the share price performance of companies that are more than 10 per cent owned by their employees against the performance of FTSE companies. Since 1992, companies listed on the employee-ownership index have outperformed FTSE companies by an average of 10 per cent a year. In cash terms, an investment of £100 in an employee-owned company in 2003 would have resulted in a net worth of £754 by 2014, but the same investment in a FTSE company would have resulted in a mere £280. If members needed any more evidence, there it is, because it matters financially for our economy to invest in employee ownership.

That difference is also borne out in growth measures. In employee-owned companies, sales typically grew by 11.1 per cent, which was in contrast to the rest of the business sector, for which sales growth was 0.6 per cent. In employee-owned companies, productivity has increased by

about 4.5 per cent year on year, when other businesses have struggled.

Although employee-owned businesses, as Maree Todd rightly pointed out, contribute £30 billion to GDP each year, there is much more potential. That is not because the model is about failing businesses—it is not—or even because it recycles things into fragile economies. Members just need to look at the well-known businesses on our high streets that are employee owned, such as John Lewis and Waitrose. In case the minister needs any further convincing, I point out that 80 per cent of employee owners would recommend their organisation as a place to work.

Employee-owned businesses provide positive models that contribute to a growing economy. As Richard Leonard's motion points out, employee-owned businesses have grown. They are also an attractive option for business succession. They build resilience in our economy and, when ownership is transferred to employees, it is guaranteed that the new owners will take a genuine interest in the business's long-term future.

I am proud that a Labour Scottish Government set up Co-operative Development Scotland. I commend my Co-operative Party colleagues of the time, Cathy Jamieson and Johann Lamont—to name but two—for their efforts in that regard. Co-operative Development Scotland has done a lot to encourage employee ownership, but its profile is low; it sits within Scottish Enterprise and I do not think that SE entirely gets it—it does not appear to be a priority.

Five of the key growth sectors on which Scottish Enterprise focuses have not grown in the past four or five years. We do not want to put all our eggs in one basket, but surely we need to encourage more employee ownership. Employee-owned businesses are growing, they are productive and they contribute positively to the economy.

I ask the minister what additional actions he will take to provide Co-operative Development Scotland with the resources that it requires. I invite him to consider the proposals in Scottish Labour's industrial strategy to place Co-operative Development Scotland on a statutory footing and provide it with investment tools to grow employee-owned companies. I apologise for not being able to hear his response to that challenge, but I look forward to reading it in the *Official Report*.

13:02

Dean Lockhart (Mid Scotland and Fife) (Con): I congratulate Richard Leonard on bringing the motion and debate to the chamber. It is a valuable opportunity to debate the benefits that are afforded by employee-owned businesses in Scotland.

It might not come as a surprise that my views on wider economic issues diverge slightly from Mr Leonard's, but I am happy to support his motion on employee-owned businesses. The increasing importance of this business model has been highlighted by the Employee Ownership Association. There are 115 such businesses in Scotland and, collectively, they generate more than £1 billion in turnover and employ a total of 7,000 staff, so they are clearly an important part of the business community.

The importance of employee-owned businesses is increasing. There is more interest in the business model from the public and private sectors, given the increased demand for a more progressive form of ownership, as well as ageing populations and baby-boomer owners looking to prepare for retirement. For example, research that was commissioned by Scottish Enterprise suggests that there are 16,000 businesses in Scotland whose owners are looking to exit within five years. It is good that employee ownership is one of the business models that can be considered. There is clearly great potential for greater uptake of it.

Reflecting that fact, as Jackie Baillie said, within Scottish Enterprise is the service that its Co-operative Development Scotland arm runs, working with Highlands and Islands Enterprise. That service provides expert advice on how companies can transition. Business owners can go in and talk to the team for one day to three days to get an understanding of how a business can transition to the employee-owned model. The Conservative members encourage any business that is considering that model to get in touch with that team at an early stage so that the necessary preparations can be made.

Research that was commissioned by Scottish Enterprise has also identified the point that, in many areas, the performance of employee-owned businesses can be superior to that of businesses in other models. Jackie Baillie mentioned the comparison with FTSE companies, but there is also strong performance in job creation, exports and productivity.

It is worth while stepping back and considering why employee-owned businesses perform better than some of their peers. Research has indicated that the improved performance is driven by a number of factors, including increased employee motivation, which Richard Leonard mentioned. Employees have a direct stake in the business's success and feel that they are contributing to that.

Higher productivity levels are driven by employees feeling empowered to alter and improve processes and systems on a daily basis to make the business more efficient. The concept of workplace productivity is becoming a central

policy driver across all business models. This particular model shows, on a relatively small scale, that workers looking at a process day in, day out are the ones with the best ideas for how to improve it.

Employee-owned businesses also have higher levels of interaction with the local community. They tend to have more engagement with local communities and with a wider range of stakeholders.

Any business model that can achieve any or all of those improvements has to be welcomed.

John Lewis has been mentioned as a good example. Recently, I was lucky enough to visit the Waitrose store in Stirling to see how this model can make a difference to employees and their level of engagement.

One of the challenges that these types of businesses will face is finding the capital investment required up front to transition to the employee ownership model. We need to raise awareness among businesses and professional advisers that transitioning to this model is a feasible and viable option not just for succession planning but in other circumstances.

It is important to highlight the benefits of employee-owned businesses and to have a discussion about some of the attributes and successes that have been generated, such as employee motivation and participation, higher levels of productivity and engagement with the local community and stakeholders. I think that there is consensus across the chamber about those benefits, not just in the context of employee-owned businesses but in the economy as a whole. I am pleased to support Richard Leonard's motion.

13:06

Andy Wightman (Lothian) (Green): I thank Richard Leonard for bringing this motion to the chamber. I was particularly pleased to hear him talk about the importance of who owns the capital in our economy. That topic has not had sufficient attention in recent years, although it used to be a bigger topic of conversation.

I also welcome the fact that Richard Leonard noted that much foreign direct investment is not actually investment. It is merely transfer payments that come into this country—in fact, they do not even come into this country; they go into some other country and then go somewhere else. Much of our industry and economy, such as whisky, is now foreign owned; there is very little left. Most of the shares in the Edrington Group were handed over to the Robertson Trust, so if one wants to buy socially benign and beneficial whisky, one should buy Famous Grouse.

I was a bit disappointed that Richard Leonard's motion uses the words "recognises", "notes" and "welcomes". The substance of his intention in bringing this debate to the chamber was to promote the notion that there should be rights for labour to acquire capital. Those rights have existed in the past, they have some precedent in this Parliament and they should be embedded in law. As a number of members have noted, by any metric, employee-owned businesses are more likely to be successful than others. The staff are more engaged and productive, as Dean Lockhart pointed out, the business is more resilient and the business has better links to the community and so on.

It is encouraging to know that employee-owned businesses are growing at a rate of nearly 10 per cent across the UK. Employee-owned businesses grew their sales by 11.1 per cent through the recession, compared with others, which grew by 0.6 per cent.

In my constituency in Edinburgh, shortly after being elected, I was pleased to be able to congratulate Black Light Ltd, a sound and vision company based in Granton, on making the move to employee ownership. It did so at the instigation of the previous owner. As Richard Leonard pointed out, previous owners are often critical because they have some sense that they want the business that they have spent a lot of time and money building up to have a sustainable future. The most sustainable future in many cases is employee ownership. In the past year, Black Light's turnover has increased by 10 per cent.

Richard Leonard might be aware that employee-owned capital is central to Green thinking. In our policy passed by members at our conference on trade unions and workers' rights, we state that we are

"committed to democracy, whereby undertakings shall be managed co-operatively through the involvement of those who work in them and the communities they serve."

Further, we support

"the mutual sector as a key component of a Green economy."

Just two years ago, I was pleased to second a motion that

"We will legislate to grant private sector employees the right to buy the company for which they work, creating a cooperative. This right will be dependent on the company meeting a range of criteria which will be subject to public consultation, and which may include the size of the workforce, ethical standards such as tax compliance and pay ratios,"

and so on.

As Richard Leonard well knows, many of those aspects are reserved to Westminster but we already have in the frame—through Scottish

legislation passed by this Parliament—the community right to buy. We have had instances of avoidance—last year, for example, a major estate in Scotland, the Tulchan estate, avoided the provisions of the community right to buy by selling the shares in the company rather than the land itself. I think that that issue will be repeated in a sale that is coming up in Aberdeenshire very soon, so we need to revisit that legislation to stop those avoidance tactics.

I am very happy—as all Greens are—to work with Richard Leonard in whatever capacity in the Parliament to advance these notions.

13:11

Elaine Smith (Central Scotland) (Lab): I thank my colleague Richard Leonard for bringing this important issue to the chamber. Richard has spent much of his working life fighting for workers' rights and he has consistently raised workers' issues in the chamber since his election last year. Indeed, his first members' business debate was on the Caterpillar workers' occupation.

The number of employee-owned businesses in Scotland has trebled over the past five years and it is one of the fastest growing forms of ownership in our country. It is time that we paid it more attention.

Last year, I lodged a motion celebrating the work of Specialised Castings of Denny, in my region of Central Scotland. It is Scotland's only employee-owned foundry and it is one of only two remaining iron foundries in the country. By the owner allowing employees to buy out that company in a succession plan, that key historic industry has been kept in the area and it has been allowed to thrive. If that option had not been available, not only would we have seen unemployment but we would have been left having to look abroad for such specialist items.

Such employee ownership is a model for other businesses across the region and the country as a whole and, as the motion notes, other companies in the central region such as Novograp and Clansman Dynamics are flourishing in a similar way. Not only is employee ownership radical and forward thinking, it is sensible too—who better to advise on how to run a business or an organisation than the people who work in it every single day?

For many people, our economy is just not working. When people are put out of work, often because of an employer relocating or closing down a business, it can result in poverty, family breakdown, mental ill health or indeed homelessness, as the Local Government and Communities Committee has been hearing in our on-going inquiry into homelessness.

That happens to many workers without them ever having the opportunity to do anything to stop it and that just cannot be right. Richard Leonard mentioned the Marcora law, which enables workers to buy out an enterprise when it is up for sale and threatened with closure. There are, of course, other European examples.

Richard Leonard has personally committed to pursuing legislation to ensure that those who create the wealth have a right to own the wealth that they create and I fully support that. It makes sense to keep jobs and profits in Scotland as part of a wider industrial strategy, with workers' ownership at its core. That could have dramatically changed the situation for the Upper Clyde Shipbuilders in 1971, the workers of Lee Jeans in 1981, or the Caterpillar workers in 1987.

Rather than a sit-in, a work-in or a strike, workers could meet owners face to face and decide their own future rather than having it decided for them by corporate greed. We should design our society with the workers who toil every single day right at the forefront. That would include profits being fed back into companies and the economy to secure jobs and build expertise. What better way to improve productivity and job security than to give people a financial investment in their own labour?

As a socialist, I firmly believe in the principle on which Labour's 1918 constitution was founded, which is also known as clause IV. I will just remind members of it:

"To secure for the workers by hand or by brain the full fruits of their industry and the most equitable distribution thereof that may be possible upon the basis of the common ownership of the means of production, distribution, and exchange, and the best obtainable system of popular administration and control of each industry or service."

Indeed, Scottish Labour's campaign for socialism—I was the convener of the campaign for more than a decade until last year, and it is now convened by my colleague Neil Findlay, who is sitting next to me—was set up to retain that very clause and to campaign for socialist policies to build the sound, planned economy that is needed to ensure equality and social justice.

We need to let workers, business owners and politicians, especially colleagues in here, know that employee ownership is not a fantasy or a utopia; it is an everyday reality that can transform our economy in new and progressive ways.

Let us promote co-operatives, foster worker buyouts and teach young people about the possibilities of employee control so that we can produce wealth, not just for a tiny handful at the top but for everyone—in other words, for the many, not the few.

13:15

John Mason (Glasgow Shettleston) (SNP): I thank Richard Leonard for raising this important subject. I am more than happy to take part in the debate.

When discussing the economy in Scotland, we have tended to focus on starting and growing businesses, but we have spent less time on who owns them and whether it is a good or bad thing for a business to be sold. We tend to accept that the norm is for one or two people to start a business and grow it to some extent. If it can be sold to a multinational for a sizeable sum, that is considered to be a huge success that will certainly get headlines on the back page, if not the front, of *The Herald*.

However, there are downsides to such a model. Often, only a few people make a big profit from the sale, while control and profits go abroad and we are left with a local branch that is always vulnerable when a downturn comes.

As Richard Leonard described, there are alternatives. The best-known examples are John Lewis and Waitrose, although they are a bit bigger than your average business.

I thank Co-operatives UK and others for briefings for today's debate. Co-operatives UK makes the point that

"while giving employees a beneficial ownership stake in business is a very good thing, the positive impacts of doing so are maximised when the workforce also has a significant degree of collective influence in the running of their business as well".

I have seen various statistics on worker and employee ownership and some have been quoted today. The key ones seem to be that there are between 51 and 86 employee-owned businesses in Scotland, or 115 worker-owned businesses, which involve about 6,800 to 7,000 workers and a turnover that is between £925 million and £1 billion. Research suggests that worker-owned companies outperform their competitors in employment, sales and productivity. Their staff turnover and absenteeism rates are often less than half the figures in their sector, and they are considered to be more trustworthy—58 per cent would trust an employee-owned business, compared with 33 per cent for others.

As Co-operatives UK says, worker ownership can mean flatter pay structures and profit sharing, reduced inequalities, and opportunities to develop skills, boost life chances and improve social mobility. However, it has to be accepted that those things are not automatic, and I was disappointed to see that, in the John Lewis constitution, the pay of the highest-paid partner can still be 75 times the average basic pay of non-management partners. I

accept that 75 times higher might be better than some companies, but it is still not great.

Andy Wightman: I have also studied the little green book of John Lewis, and that company's governance structure does not give the partners—the workers—as much control over their labour and the future of the company as some people have said. I am sure that Mr Mason agrees that governance is just as important as ownership.

John Mason: That is very much the direction that I take. I am enthusiastic about the idea, but we have to watch both sides.

I will give a more positive example, which is from my constituency. Members might well have heard of Page\Park Architects, which is owned by its 40 or so employees—it is not a huge business. It is based near Glasgow Green and has been involved in projects for Scottish Opera, the Scottish national portrait gallery, Maggie's centre in Inverness and the national museum of rural life. Some of us from the Economy, Jobs and Fair Work Committee visited Page\Park as part of our gender pay gap study, which we are to debate next week, and I was impressed by what we heard there.

Page\Park has what I understand to be a system of indirect ownership. Everyone knows everyone else's salary, and salaries are structured in a fairly flat system. In good years, if there is a bonus, that is transparent and is shared in proportion to salary, although, if there was to be a bad year, everyone could lose in the same proportion.

I realise that my time is up. I thank Richard Leonard for bringing the subject for debate today.

The Deputy Presiding Officer: I was going to give you a little extra time to make up for the intervention, but there you go.

13:19

Jamie Halcro Johnston (Highlands and Islands) (Con): First, I congratulate Richard Leonard on securing this debate on an issue that is clearly close to his heart. Employee ownership is a concept that can attract support from all sides of the chamber.

Noel Skelton, the former Unionist MP for Perth, is best remembered for his advocacy of a property-owning democracy in relation to the understanding that advances in home ownership would give individuals a greater stake in society. However, his central focus was not housing, despite later covering that topic as a Scottish Office minister, but the status of the worker and his or her stake in the enterprise in which they are employed.

As far back as Adam Smith, there has been a long tradition of recognising the benefits that a more direct involvement for the many in a nation's economic life will bring. Research suggests that workforce wellbeing can be improved by that approach, with wide benefits to the business, reductions in absenteeism, reduced staff turnover and attrition, faster growth and greater resilience. Evidence shows that employee ownership can be a potential driver of productivity, which fits in with the aspirations of both Scotland's Governments. Above all, we should see the benefits of employee ownership in terms of people having greater direction in their lives.

There are different models of employee ownership; all sorts of enterprises large and small and established and innovative start-ups have successfully adopted one or other of those models. It is welcome that members have the opportunity to consider such companies' successes.

In my region of the Highlands and Islands, a number of employee-owned enterprises operate, as Maree Todd mentioned. For example, Shetland Vets—previously Westside Vets—used employee ownership to ensure its independence and local focus; Aquascot, a salmon processor in Easter Ross, was part of a management buyout that evolved into an employee-owned trust; Highland Home Carers in Inverness is one of Scotland's largest employee-owned companies; and the well-known *West Highland Free Press* continues to operate as part of an employee-led publishing co-operative. Other alternative models of ownership are familiar in my region, because the expansion of community co-operatives has shown that people can maintain essential services in rural areas by harnessing local enthusiasm and local knowledge for the benefit of all.

I am pleased that this month's programme for government recognised investigating the scope to expand support for employee ownership as an aspiration. Having voices from across the political parties speaking up on such issues is a positive step in making progress.

In practical terms, other steps have been taken. We know of existing tax relief that incentivises certain employee-ownership schemes, and the number of businesses that have taken up such models has increased across the UK. The UK Government has also undertaken work following its commissioning of the Nuttall review of employee ownership in 2012, including developing a range of information for workers and guidance for businesses that are considering moving towards employee ownership.

Last year, the Economy, Jobs and Fair Work Committee, which I now sit on, had an exchange

of correspondence with the Deputy First Minister on employee ownership.

Andy Wightman: I note that the Conservatives had a proposal in their manifesto in May to put workers on company boards and to allow workers to hold annual votes on executive pay. Does Mr Halcro Johnston support that and will he encourage his colleagues in Westminster to bring forward those proposals in legislative form?

Jamie Halcro Johnston: I support that.

In his response to the Economy, Jobs and Fair Work Committee, Mr Swinney indicated that business gateway provides consistent support and advice across Scotland on alternative business models and that the enterprise agencies are apprised of the Scottish Government's objective of widening the models of business ownership, with Co-operative Development Scotland taking the lead. One proposal was to enhance the Scottish Enterprise community development unit's remit, particularly in relation to rural areas, given the comparative success of Highlands and Islands Enterprise in supporting local-led business. It would be welcome if the minister updated members on any changes to the signposting of alternative business ownership in Scottish Enterprise in the ordinary course of its work.

The frameworks are clearly in place to enable employee ownership. In many cases, the challenge, as my colleague Dean Lockhart mentioned, is simply making businesses aware of that option and giving potential employee-owned start-ups the support that they need to make their business a success. Again, I thank Richard Leonard for bringing the debate to the chamber.

The Deputy Presiding Officer: I call Paul Wheelhouse to close for the Government. Minister—you have seven minutes or thereabouts, please.

13:24

The Minister for Business, Innovation and Energy (Paul Wheelhouse): I welcome the debate, which has included intelligent speeches from across the chamber on the merits of employee ownership.

During our time in Government, the SNP has very much supported co-operative business models, as can be seen in, for example, the number of employee-owned businesses that are headquartered in Scotland having tripled in the past five years as a result of Co-operative Development Scotland's work, which I am sure we all take pleasure in seeing.

Worker ownership is an important subject that is worthy of debate, and Richard Leonard's motion is one that I am pleased to support.

Scotland has a proud and rich history of co-operation. As Richard Leonard and other members have said, it forms an important part of our enterprise heritage. I will respond to members' positive contributions to the debate shortly, as well as outlining the commitment that the Government has made, and continues to make, to supporting employee ownership.

Way back in the middle of the huge social and economic changes that took place in the 18th century, the Fenwick Weavers Society, which Richard Leonard referred to, was formed when a group of workers decided that their best hope for prosperity lay in working together in a properly constituted society. They recognised the benefits—not just for themselves, but for their families and the wider community—of taking control of the working environment. Ever since, people around the world have looked to those same principles, and co-operation is now a worldwide movement. We might be a small part of that worldwide movement, but Scotland can and should be proud to stake its claim as the birthplace of doing business in a better way—a way that puts people first. I think that we all share that view.

Richard Leonard made some important points about foreign direct investment. I welcomed his clarification, so I will not labour the point, but we have opportunities to work with foreign direct investors on the business pledge and other initiatives, through which they can adopt the same approach in areas including workplace innovation, valuing the workforce and gaining productivity improvements—as would be delivered through employee ownership. I think that we are in agreement on that, so I will not force the issue.

Productivity is one of the best defences for companies from being attacked in a market sense. We warmly support engagement in workforce innovation. I am sure that members will be aware that there have been great successes in companies. For example, at Michelin in Dundee, where the workforce took a grip of its future, the company developed a highly successful business model that involved working with employees to innovate and to drive productivity improvements.

Maree Todd made excellent points about sustaining productivity improvements of 5 per cent to 10 per cent per annum. She also highlighted that measures such as succession planning can be implemented well before the retirement of the owners of a business, which was an important point to make.

Retention of profit in the local community also has a dramatic impact in areas like the Highlands and Islands by sustaining general prosperity in the local economy.

Jackie Baillie made some sensible and important points about the employee-ownership index. It was fascinating and extremely enlightening to hear about the difference in performance between that index and the FTSE index. She also asked me about Co-operative Development Scotland. I appreciate that she is no longer in the chamber, but I would like to address her points. Co-operative Development Scotland is now a core part of Scottish Enterprise, which means that employee ownership is now a core part of Scottish Enterprise's succession-planning approach. That addresses a point that was made by Jamie Halcro Johnston, whom I welcome to Parliament. This is the first time that I have had the opportunity to address him directly. That development also ensures that account managers have direct access to Co-operative Development Scotland's resources. I hope that that answers Jackie Baillie's questions.

The Scottish Government recognises the importance of employee-owned enterprises, and the contribution that they make to the growth of our economy through providing jobs and wealth across Scotland and contributing strongly to inclusive growth. Although the number of employee-owned companies in Scotland is not high—at the last count, it stood at 86—we should, as a number of members have, recognise that some are substantial employers. Collectively, they have a combined turnover of just over £925 million and employ 6,800 staff, so the sector is important. Crucially—I stress this—it still has the potential to expand much further in the future. Richard Leonard and other colleagues made that point, and it is highlighted in the motion, which gives the examples of Clansman Dynamics and Novograp, which are important companies in Lanarkshire. Other examples have been given.

Employee-owned businesses are also unlike other businesses in their social purpose, their values, their governance and their commitment to their local communities. They are collaborative vehicles that play an important role in creating sustainable and inclusive growth. They enable employees, businesses and communities to work together to fulfil shared interests which, in turn, unlocks creativity and capacity in the workforce, creates a greater feeling of being valued in the workplace and leads to productivity improvements.

There is growing evidence that the use of employee-ownership models increases productivity, innovation and growth, while achieving wider societal benefits in local communities. I emphasise that such models make a positive contribution to inclusive growth, which is increasingly placing them in the spotlight from an economic development policy perspective. The Scottish Government has been, and remains, committed to encouraging and supporting those

who choose the employee-ownership business model to drive forward their businesses and help to deliver our vision of inclusive growth—by which we mean growth that combines increased prosperity with greater equality, creating opportunities for all and distributing the dividends of increased prosperity fairly in society.

Our support is ably delivered through Co-operative Development Scotland, the Scottish Government's delivery agent, which, working through Scottish Enterprise and Highlands and Islands Enterprise, supports company growth through employee-ownership business models. Co-operative Development Scotland's ambition is to achieve a tenfold increase in employee ownership in Scotland over the coming 10 years. It has already delivered employee ownership at, for example, Scott & Fyfe and Stewart-Buchanan Gauges, which between them employ more than 240 people, which gives an indication of the scale of the success.

A generation of businesses faces a succession problem. As the baby-boomer generation reaches retirement age, many business owners are considering what will happen to their companies when they choose to step back. Starting the process early creates more opportunities, as Maree Todd said. The Scottish Enterprise succession expert support service provides business owners with advice on the various options, including employee ownership, which we think has real advantages.

For the record, when a company gets into difficulty and the partnership action for continuing employment framework is engaged, I often ask whether employee ownership or a management buyout might be a solution. Such models are not always appropriate, as members will accept, but we continue at least to raise them as options to consider in such situations, to see whether they can be taken forward.

There is no doubt that the co-operative movement and Co-operative Development Scotland are doing a fantastic job—I welcome the endorsement of that work that came from members from across the chamber. This is an area in which Scotland is particularly strong and is getting stronger, but I accept that we could do even more and commit to keeping an eye on how we can do so.

More than 180 businesses accessed support over the past five years, and there is a strong pipeline of businesses that are seriously considering the employee-ownership option. As a result of CDS's promotional activity, many more businesses are aware of the model.

As members know, in recent months the Scottish Government completed phase 2 of the

enterprise and skills review, through which we aimed to improve the customer journey for all businesses, including employee-owned businesses, by ensuring that delivery of business support is clear and, in practical terms, joined up, by hiding the wiring behind the scenes so that partners who collaborate to support individual businesses can do so successfully and there is a no-wrong-door approach to businesses who approach us for support.

Work is under way to put the business user at the centre of our collaborative focus on business support, which will involve a move towards a more rounded team approach to companies and their growth ambitions, with scope for specialist support where that is appropriate. Such an approach is very much aligned with our can-do framework—

The Deputy Presiding Officer: I have been waving my pen at you in vain. Will you wind up, minister?

Paul Wheelhouse: Indeed I will, Presiding Officer. I will conclude quickly.

A number of approaches have been described today that I very much welcome. I welcome the quality of the speeches from across the chamber; the debate has been a good example of how Parliament can operate collaboratively—indeed, I should say “co-operatively”, in the context of the debate. We very much support the emphasis in Richard Leonard’s motion on engagement with employee-owned companies, and I will happily work with any member who wants to achieve success in their area.

13:33

Meeting suspended.

14:30

On resuming—

Flexible Working

The Presiding Officer (Ken Macintosh): Good afternoon. The next item of business today is a members’ business debate on motion S5M-07560, in the name of Ruth Maguire, on flexible working, maximising talent and driving inclusive growth. The debate will be concluded without any question being put.

Motion debated,

That the Parliament welcomes the Timewise report, *Flexible Jobs Index Scotland: Maximising talent and driving inclusive growth*; understands that the research and report were commissioned by the Scottish Government working in partnership with Family Friendly Working Scotland; further understands that the report represents the first time that the ratio of quality jobs advertised as open to flexible working options in Scotland has been researched; acknowledges the key finding of the report that demand for flexible jobs massively outstrips supply, with only 11.9% of quality jobs, paying at least £20,000 FTE, being advertised as flexible, while 34% of people seeking employment in Scotland are looking for part-time or flexible vacancies; considers that companies in Cunninghame South and across Scotland with family-friendly and flexible working policies reap the benefits of more loyal, motivated and productive staff and a happier and healthier working environment, making flexible working positive not only for workers and families but also for businesses and the economy; believes that the findings of this report demonstrate that companies that do not offer employees flexible working are failing to recruit and retain the best talent, and also highlights the huge potential for growing the flexible jobs market across Scotland; commends the work of Timewise and Family Friendly Working Scotland; notes the calls for employers to read this report and consider what positive actions they can take in the future, and further notes the calls on MSPs to promote family-friendly working practices to local businesses in their area.

14:30

Ruth Maguire (Cunninghame South) (SNP): I thank colleagues from across the chamber who signed the motion, allowing this debate to take place, and I look forward to listening to their contributions.

Colleagues will note that the family friendly working Scotland partnership was involved in the production of the report that is cited in the motion. I am grateful to Lisa, Nikki and their colleagues for their tireless work to promote flexible working practices, and I extend my personal thanks to them for their support in organising a breakfast briefing for local businesses that I held in Irvine earlier this month, which I will speak about a little later.

First, I will focus on the Timewise report. As the motion states, the report is, in and of itself, groundbreaking, as it represents the first time that

the ratio of quality jobs advertised as open to flexible working in Scotland has been researched. The report's findings are just as remarkable. It sets out how demand for flexible working far outstrips supply, showing that, although just over a third of people in Scotland seek part-time or flexible vacancies, only about 11 per cent of quality jobs are advertised as such—I say “advertised as such” because the report highlights the frustrating fact that many employers who would be open to flexible working, and who provide it for existing employees, do not advertise that in their recruitment ads.

We have a twofold problem: the low availability of quality flexible working jobs and the poor advertisement of those that exist.

The flexible jobs market deficit has many negative consequences for individuals as well as for our wider society and economy. It means that there is a talent bottleneck, particularly for women. It means that a significant number of well-qualified people become trapped in low-paid and part-time work, because they need flexibility but cannot find a quality part-time or flexible job. Again, that has a particular impact on women, many of whom have caring responsibilities, which is an issue that Graeme Dey will speak about in his speech. It also means that employers are missing out on hiring the best and the most diverse talent to grow their business, including women returners, older workers, disabled people and those simply seeking to work differently.

Addressing that deficit and expanding the availability and the promotion of flexible working would help to create a fairer Scotland and a stronger economy founded on inclusive growth and greater gender equality.

The “inclusive” in inclusive growth is crucial—it means economic growth that takes everyone along with it and jobs with good working conditions that pay at least the living wage. I know that many of my colleagues are registered living wage employers and ask that they encourage companies in their constituencies to join them.

Flexible working can provide a better balance between home and work life for families across the country. It would allow more women to progress in their careers while balancing work with family life; it would allow qualified and motivated people to thrive and to contribute in a way that is right for them; and it would deliver benefits for businesses and the wider economy, with more loyal, productive and motivated employees who feel valued and supported.

The good news is that positive strides have been taken to normalise and to reap the benefits of flexible working. Along with the living wage, flexible working is a key ask of the Scottish

business pledge. It was central to the report that the Economy, Jobs and Fair Work Committee published in June, “No Small Change: The Economic Potential of Closing the Gender Pay Gap”. My friend and colleague Gillian Martin will speak to that later.

Organisations such as family friendly working Scotland and Working Families already provide excellent guidance and resources for employers to adapt their recruitment practices, in particular by using the

“happy to talk flexible working”

strapline.

Many employers, from big global corporations to small local businesses, and everything in between, have discovered the benefits of fair and flexible working, which has led to great results. As I mentioned at the beginning of my speech, I recently held a breakfast briefing event for local businesses, and I will conclude by sharing some concrete examples of flexible working and the benefits that it has brought to local businesses in my constituency.

One of our speakers was Victoria Edwards, who is the chief executive officer of Irvine-based call centre Voca. I first came into contact with Victoria when I was promoting the living wage, and I could not have hoped to have a better employer in my constituency. Voca is the first call centre in Scotland to pay the real living wage. The company does not use exploitative zero-hours contracts and it supports flexible working and a good work life balance for its employees. As Victoria explained to us at the briefing, call centres normally have a terrible reputation for working conditions and can be very difficult to recruit for. However, thanks to her flexible and fair approach to her employees, she no longer has to use recruitment agencies in her business and she has a loyal and hard-working staff.

We also heard from Jim Gallagher, director of Ayrshire-based Gallagher Healthcare, which comprises eight community pharmacies. It is another customer-facing business. He told us about an employee who started with his company as a Saturday girl, earning money as a school student. She went to university, got qualified and then came back to the business as a qualified pharmacist. She worked her way up, which included taking two lots of maternity leave, coming back to work flexibly in different ways as she raised her family. Jim explained that she was a trusted employee and the company wanted to support her and, crucially, to keep her talent.

Now that the founder of the company is working flexibly to look after her grandson, she has given up her superintendent pharmacist position to Gillian, who is now leading in the most senior

pharmaceutical role in the business. She went from being a member of Saturday staff to superintendent pharmacist. She stayed on throughout as she was given flexibility during the times that mattered, and now the business benefits from her experience and her knowledge of the customers at a time when the founder wants and needs to flex her role.

Where flexible working is already practised, the benefits to individuals, families and businesses are clear. What is also clear is the huge potential for growing the flexible jobs market even further. All that we have to do is seize it.

14:37

Gillian Martin (Aberdeenshire East) (SNP): I thank Ruth Maguire for bringing to the chamber this important debate on an issue that affects many working families. I include my own in that.

As a member of the Economy, Jobs and Fair Work Committee, I was keen to have the causes of the gender pay gap investigated. The result was an inquiry into the reasons why many hard-working, talented and highly qualified women do not earn the same as their male counterparts and do not have the same access to high-earning positions or career progression throughout their career. Over our six weeks of evidence gathering, one phrase kept on cropping up, and that was “lack of access to flexible working arrangements”. We found that that single issue pushes able women with caring responsibilities into lower-paid work, shift work, zero-hours work and work that is under their skill set.

I always tell this personal story when I talk about flexible working. Nearly 20 years ago, I worked in a company that was undergoing its Investors in People assessment, and quite a few of us employees—not just women, but men and women throughout the company—decided that we would ask the managing director whether he would consider implementing flexible working practices. Core office hours were 9 am to 5.30 pm, but we wanted the option to start our day at any time between 7 and 10 am and end it between 4 and 6.30 pm. We reckoned that, as long as people worked their contractual hours over the period of a month and did not miss any scheduled appointments or meetings, we could have flexibility.

The MD was really sceptical. He was convinced that flexible working would be abused and that it would adversely affect productivity and his bottom line but, in fairness to him, he said that he would allow a six-month pilot. At the end of that period, he called a staff meeting and announced his analysis. Staff productivity had risen. It seemed that all staff had managed their time better. People

did not take advantage. No one did less than their contracted hours—in fact, he found that many did more. There was a drop in the number of staff taking time out of the day for appointments with, for example, doctors and dentists, because people used their flexitime for that, and sick leave had more than halved.

He also said that people seemed happier and less stressed. They were not battling through the rush-hour traffic every day to get there on time, and they were not spending so much time in their cars—useless time when they could do nothing. They could avoid the traffic and get to work a lot more quickly.

The work did not just get done; he reckoned that it got done more quickly and better. If someone came in at 7 am, they delivered work ahead of schedule. He had taken on the pilot reluctantly, but he became almost evangelical about the benefits of flexible working. In that six-month period, he discovered just the short-term effects. During our gender pay gap inquiry, the companies that talked to us about how they had tackled the gender pay gap and were positive about flexible working arrangements told us that employees were less likely to leave a job that had flexible working hours to find alternative employment to fit in with caring responsibilities. Employees felt more trusted and, as a result, more valued, so they stuck around. Flexible workers were less likely to call in sick. In the world of work, a major overhead is recruitment and retention, and another is time lost due to sick leave.

Flexibility is not just about start and finish times; it can also be about location and whether it is possible to work from home. The issue affects not just women; it affects all family members, because flexible working can be an advantage to anyone, regardless of whether they have caring responsibilities. Highly qualified people who might be finding it hard to find a job that fits in with their caring responsibilities might prioritise a flexible working schedule over more costly incentives that might otherwise be offered to entice the best people into a workplace.

I do not just give speeches about flexible work; my office in Parliament and my constituency office are flexible working environments. If it works for me and my staff, it might it work for an awful lot of other employers.

14:41

Jamie Halcro Johnston (Highlands and Islands) (Con): I congratulate Ruth Maguire on securing the debate. I welcome the support that the United Kingdom and Scottish Governments have shown for flexible working in recent years. Other members have spoken about the benefits of

flexibility in the workplace, and I am sure that others will do so as the debate continues. It is positive that we are discussing the subject today.

A step change in the political approach to flexible working was made in 2014 when the UK Government granted all employees a right to request flexible working. Since then, we have seen considerable steps forward in shared parental leave and free childcare—the latter has been expanded across the United Kingdom by its various Administrations.

As well as legal entitlements, cultural change has to follow if flexible working is to become commonplace. Incorporating commitments to flexible working into the Scottish business pledge and the Scottish Government's fair work programme represents a positive contribution to change. However, it is clear that we still have a considerable way to go to embed that cultural shift. Earlier this month, the Trades Union Congress pointed to a survey of young parents in low-paying jobs in which two out of five saw themselves as "penalised", with fewer hours and worse shifts, for requesting flexible working. The aspiration of both Governments must be to create long-term and enduring change in working practices if the benefits are to be realised.

The Timewise analysis noted that the Highlands—my region—had a slightly lower-than-average level of flexible jobs that pay more than £20,000 a year, at 11.6 per cent. In many rural areas around Scotland, there are challenges for businesses to deliver flexible working. Last year, the Institute of Directors survey noted that half its members would be more inclined to offer flexibility in working arrangements if there was a greater availability of fast, reliable broadband. We know that jobs in parts of the Highlands and Islands region are comparatively low paid and that parts have lower-than-average levels of professional jobs available. Flexible working could well prove to be a benefit to a region such as ours by making it an increasingly attractive place to live and work in, but the infrastructure to support it must be in place.

The Timewise analysis showed that 58 per cent of jobseekers were seeking part-time work only, while noting that transitioning to part-time work was often accompanied by a drop in status and hourly pay. In addition to the human cost, that represents a waste of an economic resource, as individuals who seek shorter hours in place of flexibility are being pushed into lower-skilled, lower-paying jobs. That benefits no one.

Members will be aware that I sit on the Economy, Jobs and Fair Work Committee and that flexible working arose during its recent gender pay gap inquiry, which happened before I became a committee member. Among the committee's

findings were that flexibility can be valued as much as employee benefits or salary increases. It concluded that, ultimately, flexible working can promote people staying on in work and returning to the workplace after breaks such as parental leave.

In its report, the committee made a number of recommendations; it would be interesting to hear the minister set out where any progress has been made. The first recommendation was that the Scottish Government should collect data across the public and private sectors on requests for flexible working and how many have been successful. It would also be welcome if we could hear more about how the public sector is leading more widely on flexible working and the uptake of flexible working arrangements, not only directly in the Scottish Government but across schools, the police and the national health service.

We are still in the early stages of building flexibility into working practices. With the correct support from the Government and businesses in the coming years, change can come, and it has the potential to be substantial. I thank Ruth Maguire again for securing the debate.

14:45

Jackie Baillie (Dumbarton) (Lab): I, too, commend Ruth Maguire for securing the debate. I commend family the friendly working Scotland initiative and, in a departure for me, the Scottish Government for commissioning the report. I see that I have shocked the Minister for Employability and Training. It is only with evidence that we can start to understand not just the nature of the challenge but the nature of the opportunity, because flexible working is an opportunity that we should exploit in the interests of the economy.

I pay tribute to family friendly working Scotland and to one of its directors, Lisa Gallagher. I used to know her in a different context, when she worked with the International Network of Street Papers. I am pleased that she and her organisation are all about encouraging employers in Scotland to engage in flexible working practices and that FFWS leads by example by offering such working practices.

Like others, I draw the Parliament's attention to the recent report from the Economy, Jobs and Fair Work Committee, "No Small Change: The Economic Potential of Closing the Gender Pay Gap". Tucked in there are recommendations about flexible working. Committee members considered flexible working very much as part of our inquiry. With all due respect to Conservative members, I say that the committee noted that employers are obliged under the Employment Rights Act 1996 to consider flexible working requests. That is the

minimum position; the situation is very different when what is needed is a change to a culture in which people feel supported. Companies may have the right flexible working policies, but they must have a positive work environment, too.

The committee recognised that flexible working needs to be available career long. There are clear benefits for parents—men and women—who share childcare responsibilities and for people who share other caring responsibilities, too. There are also benefits for people who are getting older and who, as they approach retirement, want to work less. The benefit for the employer is that it retains the knowledge in the organisation.

A lack of flexible working costs our economy. Women—it could be others, too, but let me just say women—are underemployed and their skills are underutilised. They end up working in positions that are well below their level of qualification, which does not benefit our economy.

The Scottish Women's Convention told the committee that many women

“are unable or unwilling to work the same hours they did before they had children, however this does not affect their ability to do their job”.

Others told us about the positive impact of flexible working on the economy and growth. It is also positive for people who want to engage in flexible working. It is good for workers, good for business and good for the economy—what's not to like?

The committee aimed some of its recommendations at the Government and, indeed, the Parliament—I say that while the Presiding Officer is here. We asked the Scottish Government, its agencies and the Scottish Parliament to ensure that all jobs are advertised as flexible, agile or part time, that they all collect data about what is going on in the public and private sectors and that all job application forms contain a commitment to flexible working.

We know that there is a long way to go. Only 11.9 per cent of jobs are advertised as flexible, and demand far outstrips supply. That poses a barrier to progress. Something like 128,000 well-qualified people—mostly women—work part time. Many of them work at a level that is well below their qualification level and earn less than £20,000 when they could probably earn double that, if not more. That is an opportunity lost.

I ask the Scottish Government to bed in a commitment to flexible working in everything that we do or that the Government can influence. Whether it is the Government, the Parliament, the public sector and our colleagues delivering in local government or the private sector, through procurement or the Scottish business pledge, flexible working is not just a nice thing to do; it

matters to our economy and it matters so that we as a society make use of all our talents.

14:49

Graeme Dey (Angus South) (SNP): As is customary, I congratulate Ruth Maguire on bringing the matter to the chamber. The Timewise report raises important issues. Among other things, it identifies an important distinction in the availability of flexible working in noting that the majority of employers offer it to employees they “know and trust” and see it as a “retention tool”, but that many employers fail to use it to attract people when recruiting. The report states that employers seem to have a default position of advertising jobs as full time even when they seek to replace someone who was working part time and, similarly, of failing to note flexible working as an option even when the previous occupant of the post was able to work flexibly.

There is a lesson to be learned by us all, including MSPs in our role as employers. Put simply, if employers do not change how they advertise, they run the risk of missing out on excellent staff. People need to know that they can ask for flexible working. Spelling that out in adverts helps prospective employees to identify that flexible working is on offer, and it might make the difference between them applying and not applying.

The Angus area, which I represent, performs relatively well on advertising—13 per cent of adverts for jobs with salaries of £20,000 or more note flexible working opportunities. However, low-skill and part-time roles are being taken by overqualified staff, who are pushed into those roles to get the flexibility that they need. We may well have the makings of a vicious cycle, as people with appropriate skills become unfairly locked out of the labour market.

I will highlight a good-practice example of flexible working for a significant sector of our community: carers. Although it is not focused on advertising by employers, the carer positive initiative seeks to provide carers with a degree of flexibility so that they can manage their employment and caring responsibilities. At the beginning of the year, I was delighted to host an event here at which the Scottish Parliament received its carer positive accreditation. There are now 81 accredited employers across Scotland, with 272,255 staff between them. They range from councils and health boards to large companies such as Scottish Gas and Standard Life.

Carer positive highlights not just obvious things, such as accommodating part-time working, flexitime, job sharing and granting emergency leave when it is needed, but things such as

ensuring that carers know that they are allowed to take a call at work and that there is somewhere private for them to do so. Fife Council allows carers who wish to access its counselling service during work time to do that. Carers should feel comfortable making their employers aware of their responsibilities, but they should not feel under any obligation to do so. A carer positive logo on an advert might make people aware that a prospective employer is willing to listen to people's needs. Voluntary Action Shetland lets new starts know, through its staff induction pack, that carers are welcome to identify themselves to the executive team or their team leader, but that they do not have to.

Why should organisations become carer positive? What is in it for them? Caring responsibilities impact people across the working-age spectrum but tend to hit a peak when people have gained valuable skills and experience. Carers leaving the workforce might not only have a negative impact on those carers' wellbeing and financial circumstances but damage employers and the wider economy. The impact is cumulative, and it will only increase as the population ages and the number of carers rises.

Supporting carers to remain productively in work delivers benefits to employers. Evidence shows that it increases morale and productivity, reduces stress and sickness absence, and helps employers to attract and retain experienced staff. Without support, combining employment and caring can lead to stress, exhaustion and people not performing to their full potential. Losing valuable members of staff can result in a loss of skills, knowledge and experience, and it leads to increased recruitment and training costs.

I recognise that becoming carer positive is not without its challenges for small businesses but, where it can be implemented, the flexible working that the carer positive initiative delivers is quite simply a win-win.

14:54

Jeremy Balfour (Lothian) (Con): I, too, congratulate Ruth Maguire on securing this important debate. Its timing is particularly apt as next week is national work-life week, which is an opportunity for employers and employees to focus on wellbeing at work and work-life balance.

It is important to stress that both employers and employees can gain from flexible working opportunities, as they allow both parties the flexibility to arrange work in a way that suits them.

Flexible working allows employees a better balance between their home life and their responsibilities at work. In today's society, men and women both want to find a balance between

work, family and caring responsibilities, which are shared more equally—perhaps not fully, but more equally than they were when I was growing up.

Flexible working can help businesses to retain staff, including experienced and skilled staff. Offering flexible hours when recruiting can also open up a new pool of talent with more skills. A month ago, I employed a new person to work for me at the Parliament. She was keen to have flexible hours, as was another member of my staff. Together, they now have flexible hours that suit them, and I have the best talent in the Parliament.

However, we know from the Timewise United Kingdom flexible jobs index that fewer than one quality job vacancy in 10 mentions the option to work flexibly at the point of hiring. If people do not see that on the job advert, they will simply not apply for the job. Jobs that are advertised with the option of flexibility are so scarce that 77 per cent of part-time workers feel trapped in their current roles. A report commissioned by the Joseph Rowntree Foundation in 2016 found that mothers and older workers are particularly disadvantaged by the lack of quality flexible jobs.

As convener of the cross-party group on disability, I know from having listened to many individuals that disabled people who are in work feel that flexibility would give them more opportunity to find the job that they want. Most disabled people want to contribute to society, maximise their ability to live independently, reduce their social isolation and build friendships. A report by Disability Agenda Scotland about what life is really like for disabled people in Scotland today identified that some disabled people are not able to work. That needs to be recognised and those people need to be supported. However, for others, the focus needs to shift from what they cannot do to what they can do so that they can take advantage of their talents and skills.

The evidence demonstrates that, at the age of 16, disabled people have a similar level of career aspiration to that of their wider peer group. However, by the time they are 26, they are nearly four times more likely to be unemployed. We need to foster that early aspiration and reinforce it with support that enables young people to take control of their own journey towards and into employment. I was fortunate that, when I got my first job after leaving university, my employer asked me what help I needed to be able to do it. There was flexibility, which allowed me to start off in my career.

I welcome the fair work convention's vision of creating an environment that enables people in Scotland to have a working life where fair work drives success, wellbeing and prosperity for all individuals, businesses, organisations and society. To achieve that vision, we need to encourage

more employers to take a proactive approach and use flexibility as an employee benefit that will attract talent. I urge the Scottish Government to champion the business and social benefits of flexible hiring to employers in Scotland and to make a concerted effort to reduce the disability employment gap by ensuring that flexible working is key to how not only the Scottish Government and the Parliament but local authorities and businesses throughout Scotland work.

14:59

Ash Denham (Edinburgh Eastern) (SNP): I add my thanks Ruth Maguire for securing the debate. From the contributions that we have already heard, it has become clear that flexible working can do a great deal of good for Scottish businesses and working families.

We are in challenging times, and that requires society to be more creative and open to new ideas to ensure that Scotland's workforce and economy do not suffer. On top of Brexit casting shadows of uncertainty, the average age of Scotland's population is projected to increase. Couple that with the unknowns around EU nationals' right to continue working in the UK and there is no doubt that attracting more working-age people to Scotland must be a top priority. Flexible working is one such creative strategy that can help Scottish businesses attract and keep more talent.

The numbers speak for themselves. Just over a third of unemployed people looking for work in Scotland are seeking part-time or flexible vacancies. Those people are better qualified than their counterparts who are looking for full-time work, yet only 11.9 per cent of quality jobs in Scotland are advertised with flexible working options. Although that is above the UK average, we should push—where we can—for that number to be higher to meet the demand that exists for flexible working. Such demand is further exemplified by the fact that 92 per cent of millennials rank workplace flexibility as a top priority when they select jobs. That is the prime demographic that Scotland should be working to recruit as our current population ages.

Research has also shown that flexible working boosts employee productivity and retention and reduces absenteeism. The Glasgow-based company, Pursuit Marketing, for example, has instituted a four-day working week for all its employees, which has helped it achieve a 500 per cent increase in job applications as well as a 32 per cent boost in worker productivity and a 98 per cent staff retention rate.

It is clear that flexible working can help foster the three main drivers of economic development: participation in the labour market, productivity and

population growth. Therefore, the promotion of flexible working should have a defined place in Scotland's economic development strategy.

As we have heard, the benefits of a flexible job are not merely financial. A report commissioned by the Scottish Government and family friendly working Scotland found that 77 per cent of part-time workers feel "trapped" in their current role. People might take on a part-time job that enables them to attend to other priorities in their life, such as caring responsibilities, but that is often at the expense of their career progression, and sometimes such workers drop out of the labour market altogether.

That phenomenon causes what the report calls a "talent bottleneck", which has been known to have a particular impact on women. In addition, the report cited a study by the Joseph Rowntree Foundation that states that mothers, older workers and disabled people are particularly disadvantaged by the lack of good-quality flexible jobs.

No one who wants to work should be kept from doing so. It is not about a lack of skills but a lack of opportunities. Parents should not have to choose between raising their children and advancing their career. Somebody with a disability, health issues or a caring responsibility should not be held back professionally. Indeed, I do not believe that they need to be held back, because flexible working offers a solution that could end the divide between quality of life and quality of work. We should all be talking about that as much as we can. We should continue that conversation with businesses and in our constituencies.

I see that I am running out of time, so I will finish by saying that flexible working makes sense for employers and for the country.

15:03

The Minister for Employability and Training (Jamie Hepburn): I join other members in thanking Ruth Maguire for leading this debate. I am happy to respond on behalf of the Scottish Government.

I heed the call that is made in the motion that we, collectively and individually as members of the Scottish Parliament, should do all that we can to promote flexible working in our respective areas.

I echo Ruth Maguire's thanks to family friendly working Scotland, a fantastic organisation of which the Scottish Government is a funder and an active partner. She said that she has difficulty uttering the term "business breakfast briefing". I should say that I often have difficulty uttering the name "family friendly working Scotland", which I have written down in front of me, because we always refer to it

in the context of flexible working, which makes me want to throw in the word “flexible”.

I am delighted to speak in this debate because it has allowed me to reach the pinnacle of my political experience: I have heard Jackie Baillie speak in a debate in which she praised the Scottish Government. That is a seminal moment in the history of this Parliament.

This is a timely debate because of three upcoming events. First, tomorrow’s business in the Parliament event is an opportunity to hear about the benefits of flexible working practices at one of the workshop sessions that I understand have been set up. Secondly, as Jeremy Balfour said, next week is national work life week. Thirdly, as has been mentioned quite extensively, there is a debate next week on the Economy, Jobs and Fair Work Committee’s report on its gender pay gap inquiry. I look forward to responding in that debate on behalf of the Government.

As the Timewise report highlights, the gap between flexible working and flexible hiring is causing a talent bottleneck, particularly for women. Gillian Martin set out that issue very clearly when she talked about her own experience and she and Jackie Baillie both mentioned that the committee inquiry had picked up on that issue.

In particular, the underutilisation of skills and low-paid, part-time work are—as the committee inquiry heard—contributing factors to the gender pay gap. We will of course debate that matter in greater detail next week but I put on the record now the Scottish Government’s clear commitment to closing that gender pay gap.

Without a flexible jobs market, people become trapped in low-paid, part-time work, not because of a lack of skills but because they need that job flexibility. The skills of those workers are being underutilised by employers, and many workers drop out of the workplace altogether. Graeme Dey rightly highlighted that point. He also spoke about the carer positive initiative. I thank Mr Dey for being a champion for unpaid carers and for championing the carer positive scheme. I have seen the difference that the scheme makes, both in my previous ministerial role, when I had responsibility for the carers policy, and in my current role. Of course, the Government will continue to promote that scheme as a valuable part of the promotion of the flexible working agenda.

The Timewise flexible jobs index also highlights the potential and the need for an expansion of the flexible jobs market, which will benefit employers, employees and their families, and our overall economy.

Forward-thinking employers already understand the business case and are using flexibility as a key

tool to attract a diverse range of talent into their organisations. Ruth Maguire made that point and it is a necessary point to make. Ash Denham was quite right to pick up on it as well. Against a welcome backdrop of a strong-performing labour market at this moment in time, there are concerns about certain skills gaps emerging and about the ability of employers to fill those skills gaps from elsewhere. If we are going to respond to those concerns, we need the new thinking that Ash Denham spoke of. We need to harness the talents of all our people, and part of the new thinking that we need employers to engage in is about flexible employment.

The greatest asset to any business in being able to carve out its competitive edge is its workforce. Reports published by a range of organisations have reached the same conclusion—a diverse workforce leads to greater innovation and ultimately business growth. To attract top talent, we need employers to actively discuss flexible working practices with their employees. I set out clearly that where the Scottish Government is advertising externally for a post, we use the “Happy to talk flexible working” strapline.

Flexible working helps employers to retain their top talent. We want to move flexible working into the labour market mainstream. The benefits to workers and to employers do not just apply to those with specific needs; flexible working can benefit all the employees in a particular workplace.

Flexible working, including part-time employment, can help people with disabilities or long-term health conditions to access and sustain employment. Jeremy Balfour spoke about the need for more effort to tackle the current employment gap for people with disabilities. That is something that this Government is clearly and firmly fixed on taking forward in the years ahead.

The benefits of flexible working for employees are self-evident. There is a better chance to strike a balance between work and other commitments. We also know that there are benefits for employers. The evidence supports the view that flexible working feeds into better employee engagement, motivation and retention, and ultimately productivity—all important wins for employers. That is why it is important for employers to be willing to engage with this agenda.

It was very telling to hear about Gillian Martin’s experience of having a somewhat reticent employer who was at least willing to experiment with flexible working and ultimately moved from being sceptical to being evangelical about its benefits. We need to get all employers into that space.

Many of the recommendations of the report that we have debated today encourage us to maintain our direction of travel. We will continue to do that, and we will continue to use the fair work agenda and the business pledge to develop a shared vision across Government, business and all sectors, to embed flexible working and the fair work agenda, with the goal of boosting productivity, competitiveness, employment, fair work and workforce engagement.

I am very serious about that agenda. All the evidence shows that flexible working is good not only for workers but for employers. In that sense, it makes smart business practice, and we will continue to promote it.

Domestic Abuse (Scotland) Bill: Stage 1

The Presiding Officer (Ken Macintosh): We are perhaps slightly ahead of where people would expect us to be. I am glad that virtually all the members whom we expected are here for the next debate.

Our next item of business is a debate on motion S5M-07905, in the name of Michael Matheson, on stage 1 of the Domestic Abuse (Scotland) Bill. I call Michael Matheson to speak to and move the motion.

15:11

The Cabinet Secretary for Justice (Michael Matheson): Everyone in the chamber is aware that domestic abuse blights the lives of too many people in Scotland. Domestic abuse might not be obvious, because it is largely hidden and often occurs behind closed doors and out of sight, but we know that it is widespread.

The number of incidents is truly shocking. Even if they do not know it, everyone in the chamber is likely to have family or friends who have been abused or are being abused by a partner or ex-partner. In 2015-16, almost 60,000 domestic abuse incidents were reported to the police, but that is likely to be a significant underestimation of the true extent of domestic abuse. In 2014-15, the Scottish crime and justice survey found that only a fifth of people who had experienced partner abuse in the previous 12 months said that the police knew about the most recent incident. Fourteen per cent of adults have experienced partner abuse since the age of 16.

Anyone can be a victim of domestic abuse. It is most definitely not restricted to one gender or class, or to rural or urban areas. However, we know that women are disproportionately likely to be victims of domestic abuse: twice as many women as men report having experienced partner abuse in the previous 12 months, and nearly 80 per cent of all incidents of domestic abuse that were recorded by the police in 2015-16 had a female victim and a male perpetrator.

We, as a Parliament and a society, have moved a long way in our understanding of domestic abuse since the Scottish Parliament was established in 1999. I was a founding member of the Justice and Home Affairs Committee in this Parliament, and I well remember key stakeholders and groups such as Scottish Women's Aid coming to the committee to seek to explain why steps were needed to tackle domestic abuse. Back then, it was sadly the case that too many people in our

society saw domestic abuse solely in terms of physical violence.

Crucially, there was also an attitude in some parts of society that domestic abuse was a private matter that was no business of the police or anyone else. Time has moved on and attitudes have—thankfully—evolved. Our modern understanding of domestic abuse, which has been shaped by the experience of women who have been affected and the groups that help them, is now such that we know that domestic abuse is commonly experienced as a pattern of abusive behaviour that is sustained over time. It can take the form of physical violence or even overt threats, but it can also take a form of the abuser behaving in a highly controlling, coercive and abusive way over a long period of time. The Domestic Abuse (Scotland) Bill is the Scottish Government's and Scottish Parliament's next important step in the fight to address the scourge that is domestic abuse.

Parliament has already taken action to reform the criminal law concerning domestic abuse. In 2010, the Scottish Government ensured that what might be described as the traditionally understood form of domestic abuse, which was prosecuted using the common law offence of breach of the peace, could continue to be prosecuted using a new statutory offence of threatening and abusive behaviour. That followed a court judgment that called into question the scope of the offence of breach of the peace.

The Scottish Parliament has also legislated to create an offence of stalking, which can, on occasion, be relevant in cases of domestic abuse. However, notwithstanding those reforms, it is clear that the criminal law does not fully reflect what domestic abuse is in all its forms, as our modern understanding reveals.

As many members will know, the then Solicitor General for Scotland, Lesley Thomson QC, called on the Scottish Parliament in 2014 to consider the creation of a specific offence of domestic abuse. She said that, in her experience of prosecuting domestic abuse, the existing criminal law did not always reflect the experience of victims of long-term domestic abuse. The explanation that was given for that was that because the law focused on individual instances of, for example, threatening behaviour or assault, it did not reflect the fact that domestic abuse is commonly experienced as a pattern of abusive behaviour that is sustained over time.

The kind of cases that stakeholders have highlighted as being difficult to prosecute using the existing law are those in which an abuser behaves in a highly controlling, manipulative and abusive way towards their partner over a long period of time. Examples of what abusers may do to

humiliate their partners are horrendous: forcing them to eat food off the floor, controlling access to the toilet or repeatedly putting them down or telling them that they are worthless.

Abusers can also try to control every aspect of their partner's life—for example, preventing them from attending work or college; stopping them making contact with their family and friends; giving them no or limited access to money; and checking or controlling their use of their phone and of social media. Those actions are often not accompanied by physical violence or overt threats, because the abuser knows that the victim may be in so much fear of their partner that they do not need to take physical or threatening action in order to exert control.

That behaviour can be very difficult to prosecute under our existing law. Even where a prosecution is possible, a conviction—for example, for an incident of threatening or abusive behaviour—may leave the victim feeling that the court process and the sentence that was imposed did not reflect the reality of the abuse that they had experienced.

The centrepiece of the bill is the new offence of domestic abuse. The new offence modernises the criminal law to reflect our understanding of what domestic abuse is by providing for a specific offence that is intended to be comprehensive, so that abuse in its totality can be prosecuted as a single offence. It is a course-of-conduct offence that enables the entirety of the perpetrator's abusive behaviour to be included in a single charge. That will allow the court to consider the totality of the abuse that is alleged to have taken place. It will enable the court to consider behaviour that would be criminal under the existing law, such as assault and threats, as well as psychological abuse and coercive and controlling behaviour, which can be difficult to prosecute under our existing law.

Liam McArthur (Orkney Islands) (LD): I am grateful to the cabinet secretary for the way in which he has set out the proposition that is under scrutiny. He will be aware that the Justice Committee heard evidence that the evidential bar for prosecuting criminal offences is potentially set too low. I think that the Scottish Government's response to the committee's report is very helpful in setting out why that is not the case, but perhaps the cabinet secretary could read that explanation into the record for the benefit of Parliament.

Michael Matheson: I will seek to do so. As we said in our response to the committee's report, we believe that we have set the bar at the right level. Our response reinforces the oral evidence that I gave to the committee, in which I said that we believe that the qualifying criteria for engaging the offence have been set at the right level, and that the courts will interpret that bar appropriately.

As well as criminalising specific behaviour such as violent behaviour, the new offence will criminalise other types of behaviour by reference to its effect on the partner, or ex-partner. For example, the offence seeks to cover behaviour including unreasonably restricting access to money, by reference to the fact that that might make the partner feel dependent on, or subordinate to, the perpetrator.

Children, too, are harmed by domestic abuse. When a parent is abused, that always brings harm to the child, either directly, as a result of the child witnessing the abuse, or indirectly, with the child being affected by the effect of the abuse on their parent. In line with the long-established definition of domestic abuse, the bill is about creating a new offence of domestic abuse between partners or ex-partners. The harm that is caused to children will be acknowledged through the new statutory aggravation. When children are involved, that can be reflected by the court when the perpetrator is sentenced.

I welcome the Justice Committee's stage 1 report, which supports the general principles of the bill. I thank the organisations and, in particular, the individuals who contributed to it—not least, those who shared with the committee their personal experiences of suffering domestic abuse in order to assist the committee with its consideration of the bill. The committee has raised a number of important issues, including how we might expand the scope of the power to impose non-harassment orders in order to protect the children of the victim; the proposal to create emergency banning orders that would ban the perpetrator from the victim's home; and issues concerning the interaction between criminal domestic abuse cases and the civil child-contact case process.

The Scottish Government has responded to the stage 1 report's recommendations, and I will listen carefully to the views that are offered on those issues in the debate ahead of stage 2.

Kezia Dugdale (Lothian) (Lab): I welcome the cabinet secretary's thanking of all the groups that have contributed to the bill. Scottish Women's Aid and Children 1st have both called for the inclusion in the bill of a parallel offence on the impact that domestic abuse has on children. Is the cabinet secretary's mind still open to that, at this stage?

The Presiding Officer: I ask the cabinet secretary to address that and to draw his remarks to a conclusion.

Michael Matheson: We have responded to the committee by setting out that the approach that we will take will be to reform child welfare legislation, which will allow us to consider creating a specific measure to tackle the effect that domestic abuse has on children. That is a more appropriate

avenue for considering the issue. The reason for that is partly that the qualifying criteria that are set out in the bill in relation to adults would be very difficult to apply to children. That is why it is important that we take a different approach to dealing with children, in this context. We must ensure that not only the approach in the bill but the approach for children that we take in the future can work.

The creation of a new offence of domestic abuse will not on its own end domestic abuse, but it is a groundbreaking approach that will put Scotland at the forefront of efforts to tackle the scourge of psychological abuse and coercive control. The new offence will provide greater clarity for victims and send a clear signal that what their partners do to them is not only wrong but criminal. It will improve the ability of the police and our prosecutors to intervene in cases, and it will change societal attitudes about what domestic abuse is. Domestic abuse is not only physical violence but psychological abuse, whereby someone exerts total control over a partner's every movement and action, thereby forcing them to live in constant fear.

For too long, the attitude has been allowed to linger that domestic abuse is a private matter that is no business of the criminal law. The bill makes it crystal clear that those days are long gone.

I move,

That the Parliament agrees to the general principles of the Domestic Abuse (Scotland) Bill.

15:26

Margaret Mitchell (Central Scotland) (Con): I am pleased to speak on behalf of the Justice Committee in this important debate.

The committee took evidence on the bill over six meetings, earlier this year. We held private meetings with survivors of psychological domestic abuse from different parts of Scotland, and we received written evidence from more than 40 organisations and individuals.

The new domestic abuse offence in the bill is intended to address a gap in the law: the lack of a criminal remedy when domestic abuse is primarily psychological in nature, in a relationship in which one party seeks to control and dominate the other. The committee heard that the current law is not well equipped to handle situations in which abuse consists of a course of behaviour, as opposed to an isolated incident. That means that the current law does not effectively reflect the lived experience of many victims.

The private meetings that committee members had with survivors of psychological domestic abuse helped us immensely to better understand

the nature of such abuse and the trauma that it causes. It was sobering to reflect that some of the appalling conduct that victims described cannot currently be prosecuted.

Police Scotland, the Crown Office and Procurator Fiscal Service and many third sector organisations who gave evidence were all of the view that reform is overdue. The committee agrees.

However, a minority of witnesses, including legal academics and the Scottish Police Federation, expressed significant concern about the new offence. They said that it is not easy to legislate in the realm of human relationships and that there is a risk of inadvertently making bad law, which could result in an individual being charged for behaviour that is not, by any reasonable standards, criminal, or being charged when there is no clear evidence that a crime has been committed.

The committee considered the evidence carefully and took into account the counterarguments from witnesses who disagreed with that view. For example, Detective Chief Superintendent Lesley Boal said that officers were not being called on to do anything especially new, given that they already deal with complex abuse and child welfare cases.

The counterarguments also recognised that aspects of the new offence, as with any new offence, will give rise to questions of interpretation. The committee was persuaded by evidence that emphasised that an understanding of the context of the behaviour is crucial. In some contexts, even the most innocuous-seeming comment might be a chilling threat.

The new offence addresses abuse by partners, but the drafting recognises that perpetrators sometimes use third parties—children, in particular—as a means of control. The bill makes provision for a statutory aggravator for instances of partner abuse in which children are directly involved.

Although that was welcomed, some considered that the bill should have gone further by recognising abuse of a child as a criminal act in its own right. The committee understands those views, but notes the Scottish Government's response confirming that the bill was never intended to have that wider focus. Instead, the Government has committed to consulting on the issue in the near future.

With regard to implementation, the committee recommends that there be a publicity campaign to draw attention to the new law and to underline that psychological abuse in a relationship is totally unacceptable. The committee also considers that police and prosecutors must set clear policies on

how they intend to enforce the new offence and—crucially—those policies must be kept under review in the light of experience.

Furthermore, evidence indicates that the new offence is likely to be relatively resource intensive, especially given that cases can be complex and vulnerable victims and witnesses will almost certainly need support. The committee therefore recommends that the funding of agencies dealing with the new offences be kept under review, too.

Some evidence was led, suggesting that there was an excessive focus on punishment in handling domestic abuse. However, many others, including Social Work Scotland, strongly disagreed with that. As the committee has observed, the punishment for the crime is potentially up to 14 years' imprisonment, with the possibility of its being imposed on the basis of psychological abuse alone if the court considered that such a move was merited. The committee has asked the Government to expand on its reasons for taking this approach.

The bill's remaining reforms are mainly procedural or evidential changes to the law on domestic abuse, but they are important to ensure that the justice system supports rather than re-traumatises victims of abuse. One such reform is the proposal to require a court to consider whether a non-harassment order should be made at the end of every domestic abuse criminal case. The committee is supportive of that recommendation, especially as the current law, which places the initiative on the prosecutor, is not resulting in such orders being used when it is appropriate to do so. That said, the committee has taken cognisance of the fact that an NHO does not always offer the victim the protection that was intended, and it has asked the Government to respond to that point.

In addition, some organisations have made a case with regard to the advantages of and the need for so-called emergency barring orders, which would immediately exclude an abuser from a victim's home. The committee has agreed to take more evidence on that issue at stage 2.

Finally, the issue of civil court decisions not taking cognisance of criminal court convictions was raised, especially in relation to contact with the child of a person who had been the victim of domestic abuse. The committee has noted the issue.

In closing, I want to pay tribute to the courage and eloquence of those victims of abuse who shared their stories with the committee. In so doing, they have, without doubt, helped to underline why this bill has the potential to improve our justice system. The committee therefore recommends that the Parliament approve the general principles of the bill.

15:33

Liam Kerr (North East Scotland) (Con): I echo the cabinet secretary and the convener of the Justice Committee in thanking everyone who gave evidence to the committee as well as the clerks and the Scottish Parliament information centre for all their assistance.

In its current form, the criminal law focuses on discrete incidents of physical violence or threatening behaviour that causes fear or alarm, and it can fail to recognise the lived experience of domestic abuse as a course of conduct over a period of time. The bill seeks to bridge that gap, making it possible *inter alia* to convict an individual on the basis of a course of conduct that includes psychological abuse.

As the cabinet secretary has made clear, the intention of the bill, if passed, is to improve the justice system's response to domestic abuse, principally by creating a new offence of engaging in an abusive course of conduct—even if it is entirely non-physical—against a partner or ex-partner, and it will also amend procedural and evidential aspects of criminal law with a view to tipping the balance in favour of domestic abuse victims. Accordingly, I confirm that the Scottish Conservatives support the bill in principle and will vote to agree to its general principles at decision time.

The bill seeks to address a lacuna in the legislative landscape. The committee heard compelling and persuasive evidence from a number of organisations, social workers, the Equality and Human Rights Commission and from abuse survivors. Some of the harrowing conduct that was described to the committee is not currently criminal and therefore cannot be prosecuted, and it is that which the bill seeks to address.

Some areas merit further consideration, and my colleagues will pick up on those throughout the debate. Concerns have been expressed about whether the bill risks setting the bar of criminality too low, which could potentially lead to the wrong cases being prosecuted. Calum Steele of the Scottish Police Federation gave evidence that couples at the time of a relationship breakdown may sometimes be “particularly horrible” to each other but, a few months down the line, the parties may regret getting the criminal justice system involved.

Andrew Tickell of Glasgow Caledonian University law school expressed concerns about overcriminalisation when the law intervenes in family and romantic life. He had particular concerns about the use of the word “distress” to define psychological harm, as it is a novel term in criminal law.

The SPF further expressed disquiet around officers becoming pawns in routine family disagreements, with Calum Steele noting that there is a “fundamental difference” between arresting on the basis of physical evidence and interpreting whether there has been psychological abuse. He said that, at the very least, officers would need training to apply the law. I agree with the point that Liam McArthur made in his intervention that the cabinet secretary's response to the committee's stage 1 report is useful in that regard, as it is in a great deal of respects.

I want to flag up an area that the Scottish Government might wish to consider. Courts can sometimes seem stacked against domestic abuse survivors. There is an acceptance that the judicial process for domestic abuse victims is traumatic and that steps should be taken to minimise what they have to relive and, as the committee's report suggests, to ensure that people are not revictimised by the criminal justice process. The Scottish Government accepts that point in the policy memorandum on the bill.

The issue potentially persists where victims of domestic abuse have to recount their case to multiple sheriffs. Far too often in cases of domestic abuse, there may be a number of issues, for example divorce and/or child residence arrangements, as well as the domestic abuse. Those will be heard in different arenas, with perhaps one sheriff in a civil court hearing evidence during the divorce proceedings and a separate sheriff in a criminal court for the domestic violence. There is also the possibility that multiple sheriffs will deal with different stages of a civil case. According to SPICe,

“At present, a number of sheriffs can be involved in an individual family case. There is no system whereby the same sheriff deals with every stage of the civil case.”

That means that, potentially, victims have to repeatedly relive their ordeal. Domestic violence victims face many barriers to safety and independence, but incomprehensible and/or overcomplex court proceedings should not be one.

Trials of a one family, one judge system to address the issue have been carried out in the US, Australia and New Zealand. In that system, to avoid unnecessary trauma the victim has to recount their experience to only a single judge. In England, there have been trials of an integrated domestic violence court, in which one judge handles the criminal cases related to domestic violence as well as all accompanying civil matters. The single presiding judge is cross-trained to handle all matters—criminal and civil—relating to a family. Arguably, by concentrating responsibility, that integrated court speeds decision making and eliminates the potential for conflicting judicial orders.

The approach can also increase co-ordination among criminal justice and community-based social service agencies and may improve the ability to keep tabs on defendants and to respond quickly to allegations of non-compliance with imposed orders. It may reduce the number of court appearances, thereby streamlining the process and meaning that the trauma of retelling the incident numerous times can be avoided. A review found:

“The evidence on IDVCs is promising and indicates there are advantages to bringing together family, civil, and criminal cases.”

I accept that there are issues to be addressed. Difficulties can arise when the evidence given in one case differs from that given in another, and there could be an administrative burden in ensuring that the same judge deals with both matters. Proper procedures, administration and resources would require to be in place to make it happen, but a one family, one sheriff approach for domestic abuse victims in Scotland is surely worth exploring, whether as part of the bill or separately.

Domestic abuse is monstrous and can cause immense and enduring trauma and harm. It has been sobering to hear and read the testimony of victims and the organisations that support them, which has highlighted the fact that there is behaviour that cannot currently be prosecuted because it does not meet the threshold of criminal conduct. It is clear from that evidence that more must be done to support victims, that there is a gap in our law and that the new offence is required.

We agree that the general principles of the Domestic Abuse (Scotland) Bill are sound and we shall vote for it today. However, we are confident that the Government will listen to concerns raised in the Justice Committee’s stage 1 report and during this debate to ensure that the new law is as effective as it can be.

15:40

Claire Baker (Mid Scotland and Fife) (Lab): Last year, Scottish Women’s Aid reached its 40th year. Its work, from local groups providing support and refuge for women and children who are facing domestic abuse through to its role as a national organisation pushing for political and societal change, has been instrumental in shifting attitudes. That includes the legal system and the police, which have both changed their response to domestic abuse. The difference in how we deal with domestic abuse today compared with how we dealt with it 40 years ago is clear and welcome.

There is no longer an acceptance that domestic abuse is a private matter, that it is the victim’s fault or that the victim could leave if they really wanted

to. However, there is still work to be done and, as the bill recognises, there is a gap in the law. The reality facing victims throughout Scotland is that abuse in relationships is as much psychological and emotional in nature as it is physical. A person’s home becomes their prison, their actions are watched, they are cut off from their friends and family and they are at the mercy of their abuser—a person whom they used to love, or even still do. That is why we fully support the recognition of psychological abuse and coercive and controlling behaviour as a crime.

We very much support the general principles of the bill and there is much to welcome. I hope that the cabinet secretary will appreciate that I have only a brief seven minutes and I would like to use my time constructively to consider where we could possibly strengthen the bill. There are achievable ways in which we can make the bill stronger.

Domestic abuse has a devastating impact on the victim. We must also recognise that the impact can spread further than the intended victim and can often have a serious and long-term impact on children. Those children who witness domestic abuse are at increased risk of experiencing mental health problems, developing alcohol or substance abuse problems or entering into abusive relationships themselves. We do not want to be in the position in a few years’ time of considering the bill to have been a missed opportunity.

Scottish Women’s Aid and Children 1st argue that, at stage 2 or 3, we can ensure that the law recognises the damaging impact that domestic abuse can have on children. I appreciate the cabinet secretary’s response to Kezia Dugdale’s point this afternoon and his suggestion that the bill is not the appropriate vehicle for that, but I think that the issue will be tested at stage 2.

We need to appreciate the link between domestic abuse and the impact on any children the victims may have, especially but not exclusively younger children. It clearly has a significant impact on children if they witness physical abuse. If we consider the impact of controlling behaviour, where a mother’s movements are restricted and her finances and independence are constrained, we must not ignore the impact on her child, who will also suffer from those restrictions. As Scottish Women’s Aid highlighted in its briefing for today’s debate, women’s and children’s experiences of domestic abuse are “interwoven and inseparable”.

We must also consider the impact of domestic abuse when it comes to decisions about future contact. To inflict domestic abuse on another person is a choice. It is vital that that choice is strongly considered in any court decision to award or refuse contact to a parent who is guilty of abusing their partner or ex-partner. We must move

away from the current situation in which evidence of domestic abuse does not play a significant part in contact decisions.

The move to insist that courts always consider the use of an NHO is welcome. I also look forward to the Scottish Government's response on the use of emergency banning orders.

There was some evidence to the committee that incidents could be engineered or provoked to prevent child contact and that there might be a malicious element to that. However, there was very little substantive evidence about the extent of that. However, there were descriptions of contact orders being used to continue psychological abuse. I recognise that the Public Petitions Committee has recently discussed that issue and that the Government is reviewing relevant legislation. Although that issue is outwith the scope of this bill, it is important that the bill is consistent with other pieces of legislation and the on-going review.

Scrutiny of the bill's detail will be important. We all want to see an effective bill, but context is also important, so our commitment is to roll out domestic abuse courts nationally. The domestic abuse court model works. It ensures that victims feel safe in coming forward and confident that their case will be taken seriously; it also helps in delivering convictions.

Sadly, in recent years, we have seen cases involving domestic abuse in which it was difficult to understand the judgment reached. Domestic abuse courts would ensure consistency and expertise. We should encourage models that can build specialism in this area.

The bill affords us an opportunity to put into statute a commitment to such a model. By doing so, we would not only show commitment to victims that we understand the fragile and complex nature of their cases but address some of the concerns that we have heard about the scope and the definition of the law.

Training for the judiciary is vital. I know that it is offered, but a degree of compulsion would be greatly beneficial.

Ultimately, we must have confidence that the bill and the subsequent law are clear and easily understood not just by lawyers and the judiciary but by those at risk of domestic abuse. The concerns that were expressed to the Justice Committee about the clarity of the new offence must continue to be addressed. Although there is much support for the bill, we should recognise that it will be tested and we must all be confident that it can achieve its objectives.

As the bill progresses, the Scottish Government must continue to work to put forward the case that

the law is robust and clear in its objectives and that the new offence will deliver justice for victims.

Although stage 2 will test the bill, I have a level of confidence in the legislation in that sections 1 and 2 provide a series of thresholds and safeguards. Psychological damage cannot be trivialised. It must be, by its definition, serious or substantial. The bill must challenge, not normalise, actions that demean, humiliate, harm and control partners.

The bill can be only the latest stage in tackling domestic abuse. As the cabinet secretary said in his opening statement, the extent of the abuse is concerning. We must ensure that there is sufficient funding for advocacy services, refuge accommodation, counselling and one-to-one support, but many of those services are experiencing the strain of funding pressures, particularly at the local authority level. We know that there can be a postcode lottery when it comes to receiving support, especially in rural areas, so we must work to address that.

We will be fully supportive of the general principles of the bill in tonight's vote, and we look forward to strengthening the bill as it progresses its way through Parliament.

15:47

Mairi Gougeon (Angus North and Mearns) (SNP): It is a privilege to speak in this debate on the Domestic Abuse (Scotland) Bill, because it is a vital piece of legislation to come before Parliament.

The bill makes domestic abuse a specific offence and creates a new offence of

"Engaging ... in a course of abusive behaviour"

towards a partner or ex-partner. It recognises, for the first time, the patterns of abusive behaviour and the truly traumatic and lasting impact that that has on the victims of abuse.

The Justice Committee heard a considerable amount of powerful evidence on the bill. Today, I will focus my contribution on non-harassment orders. A non-harassment order is a court order that can be used against a partner, ex-partner or any third party behaving in a way that frightens or causes distress. Currently, it is up to the prosecution to request a non-harassment order, but the prosecution is under no obligation to engage with the victim on whether an application should be made.

Under the current system, only a small percentage of successfully prosecuted cases result in non-harassment orders being issued. Research that was done in one region found that there were convictions in 502 out of 644 cases

with a domestic abuse aggravator, yet only 33 non-harassment orders were issued—that is, in only 6 per cent of successfully prosecuted cases. Under changes that the bill proposes, consideration of non-harassment orders would be mandatory in such cases.

Non-harassment orders are particularly important for two reasons. First, as was mentioned repeatedly in the evidence submitted by the Crown Office and Procurator Fiscal Service, Zero Tolerance and others, there is a significantly high risk of reoffending. Zero Tolerance cited evidence of that risk being a

“near certainty in domestic violence cases.”

The second reason is the high financial cost of pursuing a non-harassment order through the civil courts. We read about the experiences of one survivor of domestic abuse in written evidence. She wrote:

“On the day of sentencing I did not know if my abuser, who was my husband would be given a Non Harassment Order. He was not. In effect the law would allow him to leave court, get in his car and drive straight back to the marital home where I was still living. Having had the benefit of 17 months of police bail conditions while he was ‘innocent’, the law waits until he is actually convicted of a violent crime, then lifts the protection I had. It just doesn’t make sense.”

She went on to highlight what that means financially for those who are then forced to try and pursue a non-harassment order through the civil courts:

“A civil interdict is a very expensive route and I would argue beyond the reach of most victims ... When considering this I rang a solicitor and was quoted £2,000. When I expressed my shock and asked what if I can’t afford it, he replied that some women just wait to be assaulted again and use bail conditions!”

The costs, which can spiral to as high as £10,000 if the interdict is defended, can be considered as acting in effect as a barrier to justice.

The evidence went on to say:

“I can honestly say I would rather be assaulted again than go through the system as it stands”.

What frustrates and hurts me about that statement is that we heard exactly the same from another victim of domestic abuse when the Justice Committee took evidence as part of our inquiry into the Crown Office and Procurator Fiscal Service. We simply cannot have a situation that makes people who have suffered such horrendous abuse prefer to suffer that abuse than go through the justice system.

Another important element that we touched on during our evidence sessions is the potential for introducing emergency barring orders—an immediate action that could be taken that would, essentially, ban perpetrators of abuse from the

home of the victim for as long as was considered necessary. Unfortunately, we felt as a committee that we had not taken enough evidence on that to make a recommendation, but I am glad that we will take more evidence on it at stage 2.

The bill that we are discussing today is such an important piece of legislation. It has the capacity to make a huge difference to those who have suffered physical and psychological abuse, as well as sending out a message loud and clear that the insidious crime of domestic abuse will not be tolerated in our society and in our country.

The Deputy Presiding Officer (Christine Grahame): Before I call Maurice Corry, I remind everybody that speeches should be of four minutes but there is a reasonable time in hand for members to take interventions, for which they will get the time back.

15:51

Maurice Corry (West Scotland) (Con): I am glad to have the opportunity to take part in this very important debate on the Domestic Abuse (Scotland) Bill. I, too, acknowledge and thank the organisations and individuals who gave so eagerly and well the evidence that they put before the Justice Committee, sometimes in awfully difficult circumstances.

Domestic abuse is an intolerable, evil act that happens too often in our society. It harms those who are meant to be closest to us and to whom we look for support. It is totally unacceptable whatever form it comes in, but the law as it stands does not properly take into account every aspect of domestic abuse.

On page 12, the Justice Committee’s stage 1 report on the bill references the submission from Anne Marie Hicks of the Crown Office and Procurator Fiscal Service, who told that committee that the current law has prevented

“‘the bigger picture’ behind an abusive relationship being put before the court.”

The need to include psychological as well as physical abuse was clearly highlighted by Sacro in its submission to the committee. It is correct when it highlights that

“Psychological abuse can be just as effective as a method of control as physical abuse”.

The need for changes has also been made clear to the Justice Committee from a large number of varied and respected external sources including organisations that work with victims of domestic abuse, social workers, academics, lawyers, the police service and the Crown Office and Procurator Fiscal Service.

That is not to say that there are no issues with the bill, however. For example, Clare Connelly of the Faculty of Advocates noted concerns that the offences as set out in the bill do not sufficiently contextualise the conduct to be made criminal. My colleague Liam Kerr spoke about that. Additionally, Clare Connelly noted that it would be appropriate for a publicity campaign that focuses on addressing coercive control to be run alongside the implementation of the provisions in the bill. I agree with her conclusion that that overall approach would be more effective.

I will be interested to hear what thought the Scottish Government has given to the possibility of a publicity campaign to highlight the issue of coercive control as it relates to domestic abuse. Research bears out that it is a problem area. It shows that many people are likely to think that forms of coercive, controlling behaviour are more acceptable in a relationship than physical abuse. We welcome the fact that the vast majority of people know that physical domestic abuse is wrong, but we need to get to the same place on psychological domestic abuse.

15:55

Sandra White (Glasgow Kelvin) (SNP): I agree with Maurice Corry about training, but what we really need is training for cultural change. For many years, domestic violence—I do not like that title, I have always called it just violence—was accepted, until we had cultural change through laws and advertising. I absolutely agree that training is important, but we need a cultural change in society to ensure that not just physical domestic abuse but psychological abuse is seen as unacceptable.

Domestic abuse is happening all around us all the time. People might not recognise it now, but I hope that they will recognise it once the bill has bedded in. Like members who have already spoken and many organisations and agencies, I welcome the bill. Scottish Women's Aid said that the bill will

“bridge the gap in addressing controlling behaviours not covered by existing offences and crimes, particularly those that cannot be dealt with via common assault, threatening and abusive behaviour, and stalking ... Victim survivors have been telling us for 40 years that the harm from emotional and psychological abuse is the most traumatic.”

Women's Aid is absolutely correct.

I am so pleased that the bill is going through, and I welcome the Justice Committee's work on it—the committee members have been dedicated on the issue. As the cabinet secretary said, domestic abuse is not only physical abuse. Controlling, intimidating and threatening behaviour is all psychological abuse. It can start with a drip, drip effect—for example, money is withheld, so

victims have no money to go out, buy clothes or see their friends and family. Victims are told what to wear and what not to wear, and they are told so many times that they are stupid and worthless that, unfortunately, they begin to believe it. That is the psychological drip, drip effect that Women's Aid has been aware of for more than 40 years.

Like members of the Justice Committee, I thank most sincerely the people who gave evidence. I served on that committee for various bills and I know how traumatic giving evidence is.

I very much welcome the fact that the bill recognises that third parties—in most instances, that will be a child or a young person—can be used by a perpetrator. It has not been recognised before that a child is normally there. The child or young person can be used by a perpetrator to push the abuse further, and I thank the Government for taking on board the evidence about that. Most organisations and agencies have welcomed the bill's approach; witnesses from organisations that work with children and young people told the committee that the inclusion of the aggravator shows that the Scottish Government listened and responded to the concerns that they raised during the pre-legislative consultation, after the aggravator was not included in the initial consultation.

The CEDAR—children experiencing domestic abuse recovery—network is a group that Glasgow Women's Aid runs in my area to support mothers and children. It is a five-year project to deliver specialist support to women and children in the centre and east end of Glasgow. It offers support by addressing the behavioural, emotional and social difficulties that children and young people can experience because of domestic abuse. We must remember that children are affected by physical abuse and psychological abuse, and I welcome that aspect of the bill.

The Deputy Presiding Officer: I have some time in hand, so I can give members a little leeway—30 seconds. I know that that does not sound like much but, as nobody is intervening, I have to use up the time. I do not often say that.

16:00

Kezia Dugdale (Lothian) (Lab): I would be delighted to assist you in that effort, Presiding Officer. Thank you for the opportunity to speak.

The bill is about improving the justice system and how it serves the victims and punishes the perpetrators of domestic abuse. What the bill cannot do is eradicate domestic abuse. I remind members that abuse is about the exercise of power—as long as women are unequal in society, domestic abuse will persist. The bill could be perfect and domestic abuse would still persist,

which is why we must redouble our efforts for the wider goal of achieving gender equality in society.

On that point, I love Paisley, but while back benchers in yesterday's debate on Paisley's bid to be city of culture were given six minutes for speeches, today I have four minutes to talk about a bill in a stage 1 debate. I cannot help but ask whether that is a product of having a Parliamentary Bureau that is composed entirely of men.

I very much welcome the bill and the way in which it is the result of consultation on various aspects of the issue. I welcome, too, the contributions from Justice Committee members. As Claire Baker said, we whole-heartedly support the bill's principles. Like her, I will focus on what is missing from the bill and return to the need for a parallel offence of domestic abuse against children to be included at a later stage. I encourage the cabinet secretary to look at the evidence from Scottish Women's Aid about the requirement for that. Equally, it is important to consider how good emergency banning orders would be, because the evidence has told us how ineffective exclusion orders are in the civil system.

I am a cynical soul these days, for a number of reasons, so I would like to consider how the bill's principles might operate in practice. There is a history in the Parliament of doing brave things and of producing grand, world-leading legislation but then not fulfilling that legislation's promise when it comes to delivering in practice. Just yesterday, at question time on the theme of education and skills, I talked about how proud I was of the Children and Young People (Scotland) Act 2014 and its provision for continuing care for looked-after young people, yet I exposed the fact that 99 per cent of the young people who should have access to such care currently do not have it.

I am sure that Parliament would be united in its hope that what we are doing with the Domestic Abuse (Scotland) Bill will be realised in practice. To do that, we need to consider four things: education and training, resources, publicity and the relationship that the bill will have with the rest of the justice system.

On education and training, as a Conservative colleague said, we have to ensure that training on the principles behind the bill is provided to staff who will have any contact with the bill's provisions.

My colleague Claire Baker discussed resourcing. We know that cuts to refuge services are a considerable issue in constituencies across the country, as are cuts to community policing and pressures on housing. I have talked in the chamber before about meeting a woman who was the victim of domestic abuse who was stuck in a refuge for 18 months because the housing list was

so long. She wanted to move on from that experience, but she could not.

We will have to do a good job of advertising the benefits of the bill to the wider public, just as the Government has done on the issue of revenge porn; I commend the Government for the publicity campaign that has gone along with that new offence.

Ultimately, we have to look at the relationship between the bill and the rest of the justice system. Some colleagues have referred to the relationship between the bill and contact orders when it comes to families with children, where that is a necessary issue.

One thing that we have perhaps talked less about today is criminal procedure. I very much welcome the sections of the bill that address that. I cannot help but think about what the bill would have meant for constituents I have met during my time as a member of the Parliament. I think of one particular woman who came to my surgery having experienced domestic abuse. The bill would have helped her but, to her mind, it will not go far enough.

I will give members some examples of that woman's experiences. She came to talk to me about what life was like for her and her children, having been subjected to an abusive partner. Her children had to give evidence from a remote site, but the Edinburgh remote site was closed, so they had to travel to Livingston to do that. That caused great discomfort for the family. The children were not told enough about what it would be like to give video evidence in court. They were not told that they would be streamed live not just to the judge but to the whole courtroom, and they were alarmed to hear about that after the event.

The trial date of the court case was moved on four occasions because the accused tried deliberately to prolong matters. That in itself is a form of abuse. The accused faced 30 charges and was eventually convicted on 10 counts, with three "not proven" verdicts, but he was released for background checks prior to sentencing. He absconded while he was on bail, but when he was caught, he was bailed again. The bill will not address that issue of criminal procedure, which I encourage the justice secretary to look at again.

16:06

Rona Mackay (Strathkelvin and Bearsden) (SNP): Today is a historic day, because the Domestic Abuse (Scotland) Bill will, for the first time, introduce provisions on psychological abuse into the repugnant crime of domestic abuse. The bill has two main purposes: to create a new offence of engaging in a course of abusive conduct against a partner or ex-partner; and to

amend other procedural and evidential aspects of criminal law in relation to domestic abuse. It recognises the damage that psychological abuse can do and makes it a crime in its own right. It addresses a gap in the criminal law by allowing for domestic abuse convictions based on a course of conduct that includes psychological abuse, rather than on individual incidents.

We all know that psychological and emotional abuse is just as painful as physical abuse. We might not see the bruises, but controlling and coercive behaviour eats away at the victim's soul and self-esteem each and every day. The Justice Committee heard heartbreaking evidence, and I thank our witnesses for their immense bravery in telling us their stories so that others will not suffer in the way that they did.

Domestic violence—physical and psychological—exists in all sections of our communities and at all levels of society. As we have heard, mental and emotional abuse includes threats, criticism of someone's appearance and intellect, name calling, and controlling what someone does, their access to money, where they go, how they dress and who they speak to, among many other degrading control mechanisms. The cowardly abuser knows no bounds. They will threaten someone's children and isolate them from friends and family—in effect, they will try to make them a non-person. It is all about control—control by fear.

The bill aims to tackle all forms of that vile crime. As we have heard, it has been welcomed by a wide variety of organisations, including Scottish Women's Aid, the Law Society of Scotland, Children 1st and the NSPCC, to name but a few.

Children are the forgotten victims of domestic violence. The ways in which they can be harmed by domestic abuse extend further than simply witnessing abuse. The trauma is long lasting and far reaching. I am therefore delighted that the bill provides for a statutory aggravator for instances of partner abuse in which third parties—usually children—are involved. That aggravator was not part of the Scottish Government's initial consultation on the bill but, as we listened to stakeholders such as children's charities and women's groups, it became clear that children needed to be recognised as major victims of such crime.

I have sympathy with the view among children's organisations that abuse of children in domestic violence cases should be recognised in its own right, but the Government believes that the bill strikes the right balance and that major reform of the criminal law on the abuse of children is best considered separately. That law is under review, and I sincerely hope that that review will reflect the

urgent need to recognise the devastating effect that domestic violence can have on children.

Another welcome measure in the bill is the requirement for courts to consider whether to impose non-harassment orders to protect victims. Scottish Women's Aid believes that it is critical for NHOs to cover children, too, and that courts should be more willing to consider refusing contact for abusive parents. I agree, and I am pleased that the cabinet secretary is considering that. I am also pleased that emergency barring orders are being considered and that the cabinet secretary will enter dialogue with third sector organisations to consider that measure at stage 2.

There is not enough time to do justice to all aspects of this important bill—I agree with Kezia Dugdale that time is far too short—but I hope that, between members around the chamber, we have covered most of the salient points. The bill aims to expose the inadequate bullies who perpetrate controlling and coercive behaviour and to send a message to them that such behaviour will not be tolerated. For that reason, I am proud to recommend the general principles of the bill to the chamber.

The Deputy Presiding Officer: As I said, there is some time in hand, so members can say a little more.

16:10

John Finnie (Highlands and Islands) (Green): A number of speakers have talked about filling a gap. Indeed, Scottish Women's Aid mentioned that in its briefing. I thank it and other organisations for their briefings.

The cabinet secretary used the phrase “the next important step”. The bill is an important step, but there is further to go. That has been alluded to in members' comments about legislating in respect of children.

The bill is about a course of conduct that includes psychological abuse. That is laid out in section 2. It is important that the list is non-exhaustive because it remains open for the courts to decide on the matter.

I align myself with some of the comments from, I think, Claire Baker, who talked about the important role that domestic abuse courts can play. I have long been an advocate of rolling out that approach. People need to have a clear understanding that it is about the timetabling of events rather than new buildings. It is about scheduling and people working together, which is surely what we want in relation to domestic abuse.

I will read one part of the Scottish Women's Aid briefing that I thought was particularly significant:

“The new law offers a policy sea change by focusing our criminal justice response on the actions of the perpetrator rather than the circumstances of the victim. By doing so, it will enable better understandings of domestic abuse and its impact on women, children, and young people in our communities, institutions, and country.”

To inform our inquiry into the bill, we heard testimony, as a number of members have mentioned. Indeed, in our report, we say that we

“received compelling and persuasive evidence that psychological abuse within a relationship or by an ex-partner can cause immense and enduring trauma and harm.”

Elsewhere in the report, that evidence is referred to as

“powerful and moving private testimony”.

I express my great respect for those women.

Domestic abuse is primarily, although not exclusively, gender-based violence. It is important to say that confidentiality must be respected but, in some respects, it is disappointing because those women can do far more to explain the need for the bill and more measures than any politician could. Great thanks are due to them. They showed courage for a number of reasons. They are from a wide range of backgrounds and geographies, and many of them had to relocate. That affected the relationship not only with the partner but with the wider family.

Laws are intended to reflect society’s views on a given issue. As a number of members have said, there has been a welcome change in relation to domestic abuse, but we have a way to go.

I will touch on how the police will respond to the bill. Detective Chief Superintendent Boal said that there was nothing new in it. That is correct. The change that has taken place in how the police respond to historical issues of violence will not be reflected in their initial reaction when they attend the scene of an allegation. The subsequent inquiry will unearth it. Police Scotland has done some tremendous work on serial abusers whose violence has been visited on not only one female victim or one household but a series of them, sometimes over decades. Some of the salutary sentences rightly reflect the damage that those abusers have done to a number of lives. Therefore, I have every confidence that the police, working with the prosecutors, can properly address the matter. Judgments will always have to be made, but that is the case with every piece of legislation. We need not fear anything about that.

Another term that is used in the report is “hard to reach groups”. The survivors from whom we heard and the people whom the bill will assist, should it be passed—I sincerely hope that it will be—have been hard to reach. They have felt abandoned. People have talked about the effect

that the criminal justice system has on victims. It should support and help them, not victimise them further.

I appreciate that time is limited, but it is important to quote some of the evidence from Children 1st, which other members also covered. It talks about the need for a

“mandatory duty on the court to consider whether to impose a non-harassment order that includes a child in all cases where the statutory aggravation in relation to a child is applied.”

That is important. If we are going to recognise that effect in the aggravation, it should be picked up in the order. That is important for another reason, too. It is a well-documented fact that child contact is an occasion when psychological abuse continues. I hope that that matter will be looked at as we go forward.

Scottish Women’s Aid commented that we should

“ensure that abusive behaviour dealt with by the criminal courts is regarded as prima facie evidence of unsuitability for contact with a child”.

The Deputy Presiding Officer: I gave you an extra minute, Mr Finnie, so you should conclude now, please.

John Finnie: Many thanks. I lend the bill my full support.

16:15

Ben Macpherson (Edinburgh Northern and Leith) (SNP): As others have said, psychological abuse within a relationship or by an ex-partner can cause immense and enduring trauma and harm. As a member of the Justice Committee, I had that underlined to me most powerfully and movingly by the survivors who we met and the many remarkable agencies that support survivors across Scotland.

It is clear that domestic abuse is a multidimensional scourge on our society and on us all, which affects a range of relationships but particularly unequal relationships between men and women. It affects people across class, wealth, ethnicity and age. That is why I strongly support the principles of the bill, which will create a new offence of engaging in an abusive course of conduct, because that is the lived reality of such abuse on the ground and the lived experience of victims as we speak. The bill takes account of the context and impact of domestic abuse.

The proposed offence addresses a gap in the existing law by recognising—that is an important word—that domestic abuse might not only damage or violate a victim’s physical integrity but undermine their character and restrict their

autonomy, freedom and ability to live their life in the manner that they choose.

I said that the word “recognising” is important. That is because the bill, if passed, will not only empower our courts to deal more effectively with this scourge on our society but help to clarify that such coercive, controlling behaviour is unacceptable. Some of the survivors from whom we heard said movingly that, at the beginning, they were not quite clear whether they were being abused. Passing the bill will provide absolute clarity across society, particularly to victims who are suffering. They will be able to tell more easily whether they are being abused and the ability of the criminal law to take judicial action on their behalf, in the interests of justice, will be clear, too.

I support the gendered approach taken by the bill, because that is the right approach. As other members have said, the bill is set within a wider context of gender equality and addressing violence against women. That is why we have to get the bill right and make sure that the criminal justice system is ready and resourced appropriately to use the new powers and abilities that the bill will give it in order to ensure greater justice.

Others have mentioned a publicity campaign. They were absolutely right to say that it is important that there is a Government-led publicity campaign and that there is training to make sure that people in the criminal justice system and the third sector can support and give effect to the bill’s intention. That work to raise awareness has already started with the introduction of the bill and the stage 1 process.

I draw to the Parliament’s attention Scottish Women’s Aid’s one thousand words photo project. It is putting forward 15 new images of what domestic abuse looks like in order to get away from the perception that domestic abuse is only about physical harm and to illuminate the fact that it is deeper than that—it is multifaceted, and that whole range of abuse is what we should tackle. The bill will make a remarkable difference on that journey and I fully support it.

16:20

Liam McArthur (Orkney Islands) (LD): I will start by confirming that the Scottish Liberal Democrats unequivocally support this bill to tackle controlling and coercive domestic abuse, although I think that Kezia Dugdale was absolutely right to warn that there are limits to what any bill, however good, can achieve on its own.

I thank all those who gave written and oral evidence to the committee and, like others, I pay particular tribute to the survivors of domestic abuse we heard from, whose often harrowing

testimony vividly brought home to us all how psychological abuse can be every bit as damaging, as traumatising and as long-lasting to a victim as physical abuse.

For all the strides that have been made since the establishment of the Parliament in terms of heightened public awareness, political priority and changes in legislation, the prosecution of psychological abuse has too often proved difficult. That has made it difficult to reinforce the messages about how unacceptable controlling and coercive behaviour is and has in turn made it difficult to persuade victims to come forward. Ben Macpherson was absolutely right that victims are looking for more clarity and certainty that the abuse that they have suffered will be recognised and action taken against the perpetrators.

As I say, the Scottish Liberal Democrats strongly support the principles of the bill and welcome the contribution that it can make to closing the gap in our criminal law. I look forward to working with committee colleagues, ministers and stakeholders to improve and strengthen the bill in a number of areas.

A range of questions were raised with the committee during stage 1. Initially, there was a debate about whether the scope of the bill should be broadened to encompass wider family relationships, including elder abuse. Although that appears to be the approach adopted in recent legislation south of the border, from the evidence that we heard, I am certainly persuaded that the nature of abuse between partners and ex-partners demands a laser-like focus and response.

That is not to say that there is not a recognition of the impact that domestic abuse can have on children in a relationship or household. Although the bill acknowledges this and establishes a specific “aggravation”, I think that Scottish Women’s Aid and others are right in arguing that the effect is not just on a child who sees, hears or is present in the house during a particular incident, as a child’s experience is invariably interwoven with that of their abused parent. That needs to be better reflected in the bill.

More controversially, perhaps, we also considered whether the evidential bar for prosecuting coercive and controlling behaviour was set at an appropriate level. We heard concerns from legal experts, the Scottish Police Federation and others that the bill may risk criminalising behaviour that, although unpleasant, should not be considered a criminal offence.

Initially, I admit that I was persuaded by some of those concerns, but over the course of the evidence that we heard I became increasingly satisfied that the tests were sufficiently robust. The

Government response to the committee's report provided further help in clarifying that position.

It is absolutely right that courts should be required to consider non-harassment orders in any case of domestic abuse, but we can go further. Children 1st argues, as John Finnie reminded us, that

"in all cases where the statutory aggravation in relation to a child is applied,"

the court should be required to consider a non-harassment order covering the child or children. That seems to have merit and we will return to that at stage 2.

Similarly, emergency barring orders in more serious cases could, I think, play an important role, and I welcome the Government's engagement with the third sector in developing proposals that the committee will consider and take evidence on at stage 2. More work is also needed, as others have said, on tying down the details of the resources needed to make this legislation, when implemented, as successful as possible.

There is a welcome acceptance by ministers of the critical importance that training and awareness raising can play, but perhaps insufficient clarity around the scale of what might be needed. It might be helpful if the cabinet secretary set out his thoughts in more detail when he winds up.

Finally, I note that Scottish Women's Aid is highly critical of any suggestion from the committee that there might be diversions from prosecution. For my part, I accept that criticism, and although this will always be a matter for the Crown Office, I think that the more appropriate debate to be had is in relation to alternatives to custodial sentences in certain circumstances.

I am in no doubt at all that coercive and controlling behaviour can have a devastating and enduring impact on a victim by undermining their sense of self and hollowing them out, slowly but surely. At present, the criminal law in Scotland is inadequate to deal with such abhorrent and pernicious abuse. I am pleased that the bill can play an important part in righting that wrong and I will have great pleasure in supporting its general principles at decision time.

16:25

Fulton MacGregor (Coatbridge and Chryston) (SNP): I am pleased to be speaking in the debate and am immensely proud that the Justice Committee unanimously agreed to the principles of the bill. How often do we see five parties all agreeing about a bill? That says something about Scotland and the Parliament, and we should all be very proud.

During committee consideration, we heard evidence upon evidence that the bill is needed and that there is a gap in the law that means that victims are not protected from psychological abuse. That evidence came from Scottish Women's Aid, Abused Men in Scotland, all the children's charities, social work, the police, the Crown Office and Procurator Fiscal Service and victims themselves, to name but a few.

My experience as a social worker told me the same. In 12 years in a local office setting, I lost count of how many times I sat at a child protection conference, a children's hearing, a multi-agency public protection arrangements meeting or some other forum and heard evidence of what was often a pervasive pattern of psychological and emotional abuse over long periods of time. The police, social and health services often had nowhere concrete to go.

The bill will be groundbreaking and will make a real difference to service intervention and, most importantly, to the lives of those suffering at the hands of abusive—mostly, but not exclusively—men.

I do not want to sound too sucky-uppy to the cabinet secretary but, because this issue was part of my work life for a long time and it means a lot to me, I will say that if the bill is passed, he can be very proud. In years to come, he will be able to think back to this as an absolutely outstanding achievement that will have positively impacted the lives of many and helped to change the culture in this country.

I will address some of the issues in the committee report. Much has already been said, so there is a risk of repeating things, but it is worth doing. A very small—and I stress that it is small—number of stakeholders expressed concerns that the bar of criminality is being set too low. I do not agree with that. The committee heard evidence from Anne Marie Hicks from the COPFS who did not think that that was the case. I welcome that, in its response to the committee's report, the Government outlined the three thresholds that require to be met; I am sure that the cabinet secretary will highlight those.

During evidence gathering, the subject of children who are exposed to such behaviour generated a lot of discussion. I welcome the Government's response in relation to the review of the Children (Scotland) Act 1995, including a review of child contact cases as they relate to domestic violence.

I also welcome that there will be consideration of amendments at stage 2 to allow non-harassment orders to protect children specifically. The Government is taking a positive step in meeting Scottish Women's Aid to talk about

emergency barring orders, and I encourage dialogue on that front with the children's charities such as Children 1st. I met Chloe Riddell earlier today and we discussed that very issue.

I will follow up on a question that I asked the cabinet secretary when he made his recent statement. I believe that the introduction of such an offence and the subsequent publicity will lead to more convictions. From working in the field, I know that the Scottish Government has recently invested strongly in criminal justice, especially in addressing female offending. However, we need to ensure that funding is increased for programmes for male perpetrators—because it is particularly male perpetrators—of domestic violence. Programmes can work, but they need people who can specialise and do the intense work. It takes a lot of work to change people's belief systems. The change programme and the Caledonian system are examples of such work.

I take the opportunity to encourage local authorities to use Government investment to create specific posts for people who work in the area and allow them to effect change. Some local authorities do this already, but I would like to see local authorities have specific teams to work on domestic abuse, as they do in other areas of criminal justice. That would be a step in the right direction.

I see that I have been speaking for just over four minutes, Presiding Officer, so you will be glad to know that I am finishing. I welcome the bill and commend it to the chamber.

16:29

Gordon Lindhurst (Lothian) (Con): Close and intimate personal relationships are an integral part of our lives. Sharing life with a husband or wife, for example, learning more about each other and experiencing life together can give some of the most precious times in life. However, when relationships break down, whether momentarily, temporarily or permanently, such moments can be the worst that any of us face. Worse still is a situation in which two people have placed trust and love in each other, only for one of them to turn around and abuse that trust through physical or psychological maltreatment. Such abuse can take many forms and leave deep emotional wounds that last long after a physical bruise or scar may appear to have healed, and so complex can human relationships be that the victim may not initially realise what is happening.

It is that sort of complicated set of circumstances that we look at now as lawmakers. I am sure that we all agree that our purpose should be to target serious wrongdoings rather than what might be categorised as occasionally irrational

behaviour. Human weaknesses can, of course, often cause disagreements to take place within a relationship. Andrew Tickell of Glasgow Caledonian University law school said in evidence—I quote—

“Even broadly healthy relationships are occasionally characterised by hurtful conduct, jealous behaviour, and distressing episodes.”

Calum Steele's evidence has been referred to already—one part of it, anyway—but he said that his experience was that once the criminal justice system becomes involved, that involvement can itself become a source of regret and distress to individuals. So, the question is this: is the draft legislation that is before us sufficiently clear, or does it blur the line between a pattern of unacceptable, coercive and controlling behaviour on the one hand and irregular friction on the other? Does it overcriminalise?

The Glasgow Bar Association referred to a “wide scope of behaviours” that may be criminalised by the bill. Others, including the Law Society of Scotland, raised concerns about the bill having a low threshold to establish a course of behaviour. An example that has been referred to already is that of using “distress” as a measure of the impact of a person's behaviour towards another. It is valid and important to ask, as others have, whether the bar is being set too low.

John Finnie: Does Gordon Lindhurst accept that we must take cognisance of the judgment of the individual who chooses to pick up the phone and say “I require the police's assistance”? Matters will develop as a result of that, but it is their judgment.

Gordon Lindhurst: Yes, of course. It is always the judgment of the individual whether to pick up the phone and call the police. I do not demur from that, at all.

Fulton MacGregor: Will the member take an intervention?

Gordon Lindhurst: No.

We can contrast this Scottish bill's classification of behaviour as being coercive or controlling even when it has happened on only two occasions with the definition in the Serious Crime Act 2015 for England and Wales. That 2015 act refers to someone who

“repeatedly or continuously engages in behaviour towards another person”.

Home Office guidance on the 2015 act makes it clear that courts should

“look for evidence of a pattern of behaviour established over a period of time rather than ... one or two isolated incidents which do not appear to establish a pattern.”

A serious concern arises on this point: law should be clear. Those of us who, like me, have been involved in prosecution of such cases under the current system understand that. Those who have been involved know that these are sensitive matters that need to be looked at very carefully. As Mr Tickell said,

“legislators should get the law correct in the first place rather than trusting the prosecutors to use the law as it was intended.”

I am sure that that is what we are all trying to do here and what we agree we should be doing.

Without demurring in any way from the principles of the bill, I say that I am not entirely satisfied that all the concerns that have been raised have been addressed. The important point is that we want the bill to work, but for it to work, we need to see that it will work in practice because it is watertight, and that it will have its agreed intended effect.

16:35

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): The poet and domestic abuse survivor Christy Ann Martine wrote this:

“You can’t keep her in a cage,
clip her wings, tell her lies,
say that fragile birds
were never meant to fly.
Watch her live behind
a rusted door, latched tight,
her spirit slipping away
so you can keep her in sight.
Beautiful creatures
cannot be confined.
Her wings will grow,
she’ll find the sky.”

I will talk about that in a minute.

Around one in three women and a growing number of men become victims of abuse. We like to think that we find such behaviour completely and utterly appalling and disgusting, which we do, but some people are still too inclined to brush it under the carpet. However, we know that it is still happening—the evidence tells us that. We are better informed by statistics, but too many victims are still fearful of seeking redress. Perhaps some people—particularly, although not exclusively, the abusers—think, “Oh, well. You’ll get over the broken bones, the bruises and the smashed teeth and life’ll go on”, but we know from the committee’s evidence and evidence from other avenues that that is certainly not the case for many victims.

The question is whether we are doing enough. We need to wipe out home-based domestic violence and make it completely unacceptable. That is the culture change that my colleagues have spoken about. With the right tools in place,

Scotland can become an exemplar and can really chip away at an old and outdated notion—the “It’s none of my business, pal” mentality.

That can be done through grass-roots community work. Many of the relevant organisations have been mentioned, and I would like to thank them for all the help and support that they have given me in the work that I do in co-convening, along with my colleague Claire Baker, the cross-party group on men’s violence against women and children. We have seen some improvements—in many cases, huge improvements—through the work of locally led groups, such as South Lanarkshire Women’s Aid and the Lanarkshire Rape Crisis Centre, which I have worked with, as well as the brilliant work of the STAMP—stamp out media patriarchy—project in schools.

The bill tackles one of my biggest concerns, which is coercive control, the victims of which are not aware that being isolated from friends or family, having their access to money and bank accounts restricted or having personal medical conditions revealed are domestic abuse. It needs to be a criminal offence. Such behaviour devastates human lives. Using gestures and eye contact to warn a person or control their behaviour can be undetectable to most of us, but devastating to the person who is the target of it.

The Justice Committee saw so much “compelling and persuasive evidence” of psychological abuse that it saw it as

“a real and pernicious issue, the effect of which can be every bit as harmful as any violent abuse.”

It is important to add that an increasing number of victims are young men and women in the lesbian, gay, bisexual, transgender and intersex community. Having a same-sex partner does not protect people from abuse. Members of that community find themselves being bullied, humiliated, laughed at or rejected through psychological and coercive behaviours and the physical violence that comes with them. We must be mindful that that is happening.

In its briefing, Scottish Women’s Aid welcomed the principles behind the bill and said:

“The new law offers a policy sea change by focusing our criminal justice response on the actions of the perpetrator rather than the circumstances of the victim. By doing so, it will enable better understandings of domestic abuse and its impact on women, children, and young people in our communities, institutions, and country.”

I agree. Our present law leaves a gap that the bill will, I hope, close. It will give better protection to victims who seek redress for acts that will be criminal in law. At the moment, if someone wants to make a case, they must do so either on the ground that their physical integrity has been

attacked or the ground that threatening behaviour has caused them fear and alarm.

Fundamentally, the bill carefully defines the offence of engaging in an abusive course of conduct against a partner or ex-partner. The asks that some members have made notwithstanding, it will enhance the power of the police and improve protection for victims. Here is my ask: I ask the Scottish Government to strengthen the bill when it comes to the impact on children, on which I know Scottish Women's Aid has some proposals. I would also welcome the Government confirming that the review of the Children (Scotland) Act 1995 will include consideration of that issue, and I reiterate Kezia Dugdale's call for similar mindfulness.

I also ask the Scottish Government to be mindful in its review of short-term sentencing during the passage of the bill—I am sure that many organisations will tell the Government why they have concerns about that.

The bill presents an opportunity to break the lock of the cage that Christy Ann Martine described.

The Deputy Presiding Officer: Please conclude.

Christina McKelvie: Why would anyone stand in the way of the bill's essential principles? I do not.

The Deputy Presiding Officer: I did not want you to eat into the time for the closing speeches.

16:40

Rhoda Grant (Highlands and Islands) (Lab): From the outset, this Parliament set out on a journey to combat violence against women. It is good to see the bill progressing, and it is good that there is support for extending domestic abuse legislation beyond physical abuse to cover emotional and coercive control within a relationship.

However, that is not the end of the journey. There are many more issues that need further examination and legislation. I hope that some of them can be included in the bill at stage 2; those that cannot be included must be given priority. Our vision must be to create a country in which we have true equality and an end to violence against women.

We need to look at the legislation around children who are victims of domestic abuse, and we need to ensure that there is adequate resourcing of the police, social services and support services such as Scottish Women's Aid, which does wonderful work. My colleague Claire Baker paid tribute to Scottish Women's Aid, which

has been in existence for more than 40 years and is still battling the scourge of domestic abuse.

We recognise the devastation that domestic abuse brings to women, but we need to understand that children of the relationship are damaged, too. That point was made by Claire Baker, Kezia Dugdale, Rona Mackay and many other members. The bill deals with situations in which a child is used as an aggravator to further the abuse of the adult victim, but it does not deal with the impact of domestic abuse on the child.

The impact of domestic abuse on a child can be long term and catastrophic. In its briefing for the debate, Children 1st said:

"An increasing body of robust international evidence recognises domestic abuse as one of ten types of traumatic adverse childhood experiences (ACEs) which can increase the likelihood of people developing chronic diseases, mental ill-health and a range of negative social and emotional impacts, such as being a victim of violence throughout their lifetime."

That is the impact on children who are brought up in a relationship where there is domestic abuse. Until we recognise that and protect such children, we will be falling short in our duty of care to them. As Liam McArthur said, the child's experience is totally interlinked with that of the abused parent.

A review of the Children (Scotland) Act 1995 will take time, and more children will suffer in the interim. There are things that we can do in the bill that will save many children from being harmed while the review is taking place.

I have seen many cases in which child access arrangements have been used to continue the abuse beyond the end of the relationship. That has a long-term impact on the child, in addition to the impact of the abuse itself. It is surely not acceptable that a mother should be forced by the court to send her child into a dangerous place.

Child access arrangements in situations of domestic abuse need to form part of the disposal. Scottish Women's Aid, Children 1st and other expert stakeholders propose that a child should be provided with a non-harassment order in their own right. Such an approach would prevent a civil court from forcing a child to have contact with an abusing parent. Indeed, I think that an abusing parent should have no access to a child until they can prove that they have changed their behaviour. A parent who creates a situation that damages their child should surely relinquish all their parental rights. That is the case under child protection arrangements; it is just that we do not recognise the damage that witnessing abuse does to a child.

In his speech, Michael Matheson said that he will deal with the issue in new legislation. There are wider issues that can be dealt with in new legislation, but domestic abuse courts are expert

in recognising what a children's hearing or civil court might not recognise. There must be no gaps in child protection. I urge the cabinet secretary, as other members have done in the debate, to look again at the matter.

There is some opposition to the bill. As Liam Kerr pointed out, a minority of those who gave evidence expressed reservations about the wording and the practical effect of the new offence. Some legal experts and police officers have talked about the difficulty of legislating in the realm of human relationships, but that takes me back to the days when people referred to "domestics". I find it sad that such views still resonate in some quarters today, and they indicate the need for additional training of police and prosecutors. After all, such abuse is easily recognisable to the trained eye, as Maurice Corry, Kezia Dugdale and Ben Macpherson have pointed out.

The Deputy Presiding Officer: Please conclude.

Rhoda Grant: I must apologise, Presiding Officer—I could go on for some time. However, let me finish by saying that we support the bill as a step in the right direction and hope that we can build on it at stage 2.

16:45

Michelle Ballantyne (South Scotland) (Con): I close on behalf of the Scottish Conservatives with a sense of sadness that this debate was ever necessary, but also with some hope that we in this Parliament are taking some meaningful steps in our efforts to tackle something that is all too prevalent in our society. The cabinet secretary and Margaret Mitchell opened the debate very eloquently by setting out the reason why we are discussing this issue and highlighting the importance of getting this right and ensuring that what is enshrined in law is enforceable and can protect the victims we are seeking to protect.

A victim once described to me the insidious nature of domestic abuse. It picks away at a person's confidence, often in small ways at first, so that the person does not even realise that they are being drawn into an abusive relationship—until one day, they look in the mirror and it is not them looking back any more. Their confidence is supplanted by doubt and their freedom is enveloped by chains, because psychological manipulation is an evil and systematic poisoning of the soul. Our present law is not sufficiently expansive to enable what the COPFS has described as

"the effective prosecution of psychological abuse and controlling and coercive behaviour"

that

"may ... undermine a victim's character, restricting a victim's autonomy and freedom and their ability to live their life in the manner they choose."

However, the bill bridges that gap, and I commend certain elements of its construction. First, I welcome the bifurcated test in section 1(2)(a), which will allow the court to take account of any particular circumstances or vulnerabilities of the victim that might be preyed upon, irrespective of whether the behaviour in question would be likely to cause harm in the view of the objective "reasonable person".

I am also supportive of the inclusion of a recklessness test in determining mens rea in section 1(2)(b). That is appropriate—indeed, essential—because a perpetrator of domestic abuse can be devious and skilled in manipulation. They might present their conduct in a manner that, at least superficially, suggests that they did not intend to cause harm and therefore did not meet the requisite standard of mens rea. Importantly, the bill closes that particular back door, allowing effective policing of the specific characteristics of those who control or coerce victims.

I also support the statutory aggravation of the offence in section 4, which takes into account the harm caused to a child who is exposed to an abusive environment in which access to a child and interaction between the victim and their child are restricted. I whole-heartedly support the calls that were made by many members, including Sandra White, Kezia Dugdale and Claire Baker, that we ensure that the welfare of children who are caught up in domestic abuse is thoroughly explored as the bill goes through its various stages.

However, as my Conservative colleagues have highlighted, we have some significant reservations about the drafting of the bill. We are highlighting those reservations not because we do not want the bill to proceed through its stages or to be passed but because we think that it is vital to ensure that anything that we put into statute is enforceable.

Maurice Corry noted calls for a publicity campaign to be run in conjunction with the bill's enactment, and, thereafter, for awareness raising of the issue of coercive control and its criminalisation. I add my support to such moves; indeed, Kezia Dugdale, too, echoed those calls. Ben Macpherson made the good point that the bill's passage through Parliament will itself draw attention to domestic abuse issues and many pieces of good work in that respect are already being undertaken, but that does not mean that we cannot go further. One of the things that we should look at is the provision of early intervention and prevention services for young people displaying any signs of problematic behaviour in this context.

Gordon Lindhurst highlighted the concerns of academics and police officers that there is a substantial risk of lowering the threshold of criminality due to the ambiguity of the word “distress”. We must therefore proceed with caution, so as not to open the floodgates to vexatious litigation, because that in turn could undermine the cases of victims who really need support and, eventually, a prosecution.

I fully endorse Liam Kerr’s comments and our advocacy of trialling the one family, one judge approach that has been adopted in various countries. That could be a vital ancillary means of streamlining the system and ensuring that victims are not forced to relive the experience time and again.

We have heard many contributions about the importance of the bill, not one of which was invalid, but I would like to pick up on a couple that really struck me. Mairi Gougeon made a powerful contribution on non-harassment orders. She pointed out that only 6 per cent of convicted cases include a non-harassment order and that somebody who is convicted can walk out of court and go back to the victim’s home. That highlights the issues that we face as we take the bill through Parliament. We must ensure that the legislation that we put in place effectively gives the protection that women crave.

I do not take away from any of the points that have been made in any shape or form but, as we close the debate, it is important to say that, although the principles that underpin the bill are sound, we now need to make sure of the details. As Fulton MacGregor highlighted, we have five parties working together on the issue and we are in agreement, but we need to nail down the details as the bill goes through its various stages. I join Fulton MacGregor in saying that we should now work together to amend and improve the substantive elements of the bill. We must address the concerns that have been outlined to ensure that the right balance is struck between the protection of victims and due process in our courts.

There will be differences of opinion and further debate and discussion, but there should be no doubt that the Scottish Conservatives and, I hope, the whole Parliament will not waver in our drive to effectively legislate against and prosecute domestic abuse in all its forms. We are working to eradicate the scourge of domestic abuse. I agree with Kezia Dugdale that we will probably never eradicate it, but there is a process, and the bill represents another step forward in that process, so we should take it forward whole-heartedly.

16:52

Michael Matheson: I am grateful to members from across the chamber for their comments and for the cross-party support for the general principles of the bill. As I said in my opening remarks, it is unique in that we are seeking to criminalise a course of behaviour, which is novel in Scottish law and to an extent in law in the UK as a whole, as it differs from the approach that has been taken in England and Wales.

I will return to that, but I first turn to whether we have set the bar in the bill at the right level, because that is pretty fundamental to the bill’s effectiveness. I am concerned that some who believe that the bar has been set too low are overlooking the protections that are built into the bill to ensure that we strike the right balance. I therefore want to be clear about how the offence will work and about the three conditions that must be met for the offence to be brought into play.

The first aspect is that the accused must engage in

“a course of behaviour which is abusive of”

their partner or ex-partner. Further, it must be the case that

“a reasonable person would consider the course of behaviour to be likely to cause”

the partner or ex-partner

“to suffer physical or psychological harm”,

and that the accused intends the course of behaviour to cause their partner or ex-partner to suffer such harm, or they are

“reckless as to whether the course of behaviour causes”

such harm. It is important to remember that the test of whether the accused’s behaviour is likely to cause the victim harm applies to the whole abusive course of behaviour and not to whether a single instance of behaviour caused such harm.

Several members, including Gordon Lindhurst, Liam McArthur and Michelle Ballantyne, referred to the threshold of distress in the definition of psychological harm. We believe that distress is the appropriate level. How will courts decide how to interpret distress and how will they take it into account? In reality, courts will turn to the dictionary definition of distress.

“Distress” is not synonymous with mere upset or annoyance. The “Concise Oxford English Dictionary” defines “distress” as meaning “extreme anxiety or suffering”. That is exactly why the Crown Office and Scottish Women’s Aid have said that that is where the threshold should be set. They see extreme anxiety or suffering as being key to bringing the offence into effect. With those three criteria and the threshold of distress, we

have arrived at our position, which I believe to be the right threshold.

I turn to several other issues that members such as Kezia Dugdale, Claire Baker and Mairi Gougeon raised in relation to the protection of children and non-harassment orders. The committee suggested that we should extend the provision of NHOs to children and I can confirm that we will lodge amendments to do that. That extension of NHOs will sit alongside the mandatory provision that courts will have at the time of sentencing to take into account such orders.

Members raised the issue of the interaction between our criminal and civil law—Kezia Dugdale in particular raised that—and ensuring that the way in which our justice system operates is comprehensive and holistic. When children are involved, the centre of our system should be the fact that the child's interests have paramount importance.

As Mark McDonald mentioned in March, through the review of the Children (Scotland) Act 1995, we will consider providing for a specific measure on domestic abuse in relation to children and a specific offence within that. The review process will allow those with an interest to help us to shape that effectively to reflect a modern understanding of how domestic abuse impacts on children and their welfare.

Kezia Dugdale: The cabinet secretary's remarks on that point are much welcomed. However, does he recognise that, as much as the procedure might work well, the reality is that we will need appropriate resources to ensure that it works for families?

Michael Matheson: I fully recognise that. Over the past three years, the justice sector has been provided with an extra £20 million to support speeding up the process so that domestic abuse cases are dealt with much more quickly in court. We have made significant progress on calling cases at an earlier stage. I recognise the need to ensure that there is sufficient resource.

Kezia Dugdale referred—as did others—to the child contact process being used and manipulated by individuals to inflict greater harm on someone who has experienced domestic abuse. As part of our modernisation of family law, we have given an undertaking to consider mechanisms and processes that can be put in place to prevent that from taking place and to prevent abuse of the system.

A number of members have raised the possibility of running a publicity campaign about the legislation. I assure members that we will do exactly that. We will build in a publicity campaign

to ensure that there is greater awareness about domestic abuse and the new provisions in the bill.

John Finnie was on the money when he talked about how the police will respond to the new legislation. Their response to domestic violence has changed dramatically not just in the past 20 or 30 years but in the past 10 years. We now have cases in court where one complaint from one individual has resulted in three or four complaints from other individuals, because of how the police trace back the issues. I am confident that, with the right support and the right training, Police Scotland and our officers, with their professionalism, will see the implementation of the legislation through.

Kezia Dugdale said that domestic abuse will continue to blight our society while we continue to have inequality in our society. The reality is that domestic abuse is a product of social and gender inequality in our society. The justice system can do only so much to tackle that. I am not deluded to the point that I think that the bill will end domestic abuse. However, it will support women who have had to suffer the misery of coercive and controlling behaviour over many years—in some cases, over decades—and show that the Parliament recognises their plight and that we are determined to do everything possible to bring the perpetrators of such misery in too many households to account through our criminal justice system. This bill will support and assist us in achieving that.

Domestic Abuse (Scotland) Bill: Financial Resolution

17:01

The Presiding Officer (Ken Macintosh): The next item of business is consideration of motion S5M-07708, in the name of Derek Mackay, on the financial resolution on the Domestic Abuse (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Domestic Abuse (Scotland) 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.—[*Michael Matheson*]

Decision Time

17:01

The Presiding Officer (Ken Macintosh): We come to decision time. Two questions are to be put. The first question is, that motion S5M-07905, in the name of Michael Matheson, on stage 1 of the Domestic Abuse (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees to the general principles of the Domestic Abuse (Scotland) Bill.

The Presiding Officer: The final question is, that motion S5M-07708, in the name of Derek Mackay, on the financial resolution on the Domestic Abuse (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Domestic Abuse (Scotland) 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.

Meeting closed at 17:02.

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