



OFFICIAL REPORT  
AITHISG OIFIGEIL

DRAFT

# Meeting of the Parliament

Tuesday 12 November 2019

Session 5



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# Scottish Parliament

*Tuesday 12 November 2019*

*[The Presiding Officer opened the meeting at 14:00]*

## Time for Reflection

**The Presiding Officer (Ken Macintosh):** Good afternoon. Our first item of business is time for reflection and our time for reflection leader is Ms Lindsay Taylor of the Muslim Council of Scotland and the board of Interfaith Scotland.

**Lindsay Taylor (Interfaith Scotland):** Assalamo alaikum—I begin by addressing you with the greeting of peace.

In this moment of reflection, I would like to share with you how Islam as a religion has taught me to strive for goodness and how much of the work that we do in interfaith is to come together with goodness to share, to invite and to learn more about one another. For me, Islam is a way of life in which every one of us has a part to play in making a better world. That can be seen in Qur'an verse 49:13:

“O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you. Indeed, Allah is Knowing and Acquainted.”

The need to come together was instilled in me from a very young age through the eclectic mix of religions and beliefs in my family, who put interfaith and respect for one another front and centre. My uncle even jokes at family gatherings:

“A Muslim, a Jew, a Christian and an atheist all came together ... They were all in my house and they were all very happy.”

Interfaith Scotland, to me, is a continuation of the need to respect and work together. My upbringing helped me appreciate that there was more to each of us than what we see on the outside. I wear my scarf as an expression of my faith and as a connection to Allah. Despite the funny looks that I often get, my faith gives me strength inside and out and it binds me to hope and good actions for the benefit of all.

The Prophet Mohammed—peace be upon him—said:

“The best of people are those that bring most benefit to the rest of mankind.”

I have learned that interfaith is about us coming together for not just good words but good deeds that make a difference. It is about giving back and working with communities that might be different from our own but that come together to work in

hope and friendship. The Prophet Mohammed—peace be upon him—said:

“God is beautiful and He loves beauty.”

Islam has taught me this: a way of life that is beautiful in actions and words.

Thank you very much for giving me the opportunity to speak today in interfaith week. *[Applause.]*

## Business Motion

14:03

**The Presiding Officer (Ken Macintosh):** Our next item of business is consideration of motion S5M-19833, on behalf of the Parliamentary Bureau, setting out a change to today's business.

*Motion moved,*

That the Parliament agrees to the following revision to the programme of business for Tuesday 12 November 2019—

after

*followed by* Topical Questions

insert

*followed by* Ministerial Statement: Sheku Bayoh – Next Steps—[*Graeme Dey.*]

*Motion agreed to.*

## Topical Question Time

14:03

### Deposit Return Scheme (Craft Brewers)

1. **Jackie Baillie (Dumbarton) (Lab):** To ask the Scottish Government what discussions it has had with craft brewers about the deposit return scheme. (S5T-01877)

**The Cabinet Secretary for Environment, Climate Change and Land Reform (Roseanna Cunningham):** Scottish Government officials have met representatives of the Society of Independent Brewers—SIBA—and the Brewers Association of Scotland to discuss the deposit return scheme. SIBA also sits on working groups discussing producer and scheme administrator issues. Zero Waste Scotland hosted a workshop for small brewers on 25 September and has continued engagement with the sector, including publishing a sector briefing for small producers. We are securing further dates in the diary to continue engagement.

**Jackie Baillie:** I had the pleasure of spending yesterday morning with the Loch Lomond Brewery discussing the deposit return scheme—there was no drink taken. The brewery is in favour of the principle of the scheme and fully supports recycling efforts. Its concerns are about the operation of the scheme in practice. Those concerns are widely shared by other craft brewers, the glass industry and the whisky industry. Indeed, about two thirds of submissions on the matter raised substantive concerns.

Loch Lomond Brewery tells me that a barcode for Scotland will cost hundreds of pounds, that it will need separate labels for bottles sold in Scotland and bottles sold elsewhere and that it will have to spend hundreds of pounds incorporating barcodes for each label and thousands of pounds on new machines to collect recycled bottles. Many of its products are purchased in Scotland and taken abroad, so there is no chance of the bottles being recycled again in Scotland. Such small craft brewers operating on small margins have real concerns about the impact of the deposit return scheme for glass. They would prefer to proceed on a United Kingdom-wide basis. Will the cabinet secretary, rather than her officials, meet craft brewers and their representatives to address their concerns before passing regulations?

**Roseanna Cunningham:** As I indicated, officials are looking at potential dates for meetings. To respond to some of what Jackie Baillie raised, the Deposit and Return Scheme for Scotland Regulations 2020 do not create a requirement for separate Scottish labelling and will therefore not

mandate a separate stock-keeping unit for producers. Some of the issues around this perhaps arise from a misunderstanding. That is one reason why we want to ensure that the scheme, when it is up and running, is industry led: it is not something designed by us; we want industry to design and run it. The Norwegian example is the one that we are most attracted by. These issues—they are real issues and I understand and hear them—are matters for the scheme administrator to consider. I strongly encourage all small retailers, regardless of what part of the business they are in, to be very involved in the work that is being done to take the whole issue forward. This deposit return scheme will significantly increase the quantity and quality of recycled glass that is available for reprocessing, as well as doing really good work in significantly reducing the amount of plastic that gets into our environment.

**Jackie Baillie:** I thank the cabinet secretary for her further very welcome response. There is a real issue about the quality of recycling. We know that we get most recycling of white glass, less of green glass and nothing really of brown glass. Most drink bottles are typically green and brown glass. There is also concern that we have not maximised glass collection using existing means. For example, many local authorities, including my own, do not do doorstep glass recycling, and we feel they should be encouraged to do so. I am delighted that the cabinet secretary mentioned that this scheme should be industry designed and run, because I think that is at the heart of the issue. The key issue for me is that we involve the industry now, before the regulations are passed, given its concerns and given the misunderstanding over glass recycling. Will the cabinet secretary consider introducing the deposit return scheme in two phases? The first could deal with plastics and cans and the second could introduce glass. That would allow an opportunity for those really important discussions with the industry.

**Roseanna Cunningham:** I hear what Jackie Baillie is asking, but one of the difficulties with this is that if we introduce a scheme that excludes glass at the start, it is prohibitively expensive and it is almost impossible to retroactively add glass to the collection process. I am happy to engage directly with her on that. Our current best available evidence on the recycling rate for glass is that it sits at around 64 per cent. All the evidence we have suggests that the countries whose deposit return schemes include glass are getting a recycling rate in excess of 85 per cent, so we are looking at a fairly significant uptick in the amount of glass that can be recycled through such a scheme.

As I said at the beginning of this process, plastics are easily understood and it is easy to

change to a deposit return scheme on plastics. I accepted that there are slightly greater issues attached to glass, but it is also one of the most popular materials among the public to be included in this. Some 85 per cent of people surveyed want glass to be included and one of the reasons for that, of course, is the very antisocial element that glass creates when it is left lying about.

I am very happy to engage further on that. In my initial answer, I indicated that there are organisations that sit on two separate working groups, and the Federation of Small Businesses sits on the implementation advisory group. I would therefore hope that everybody who is involved in particular parts of the sector is making sure that their views are being fed through their organisations to the implementation advisory group, because it is the group that will come up with the industry-run scheme.

**Maurice Golden (West Scotland) (Con):** I refer members to my entry in the register of interests. I welcome the cabinet secretary's comments that the scheme will be industry and expert led but, under current plans, the level of deposit will be set by politicians through legislation, rather than by the scheme administrator. Does the cabinet secretary agree that technical experts would do a better job of setting the deposit level in order to meet targets?

**Roseanna Cunningham:** I am not sure that I do. Our decision making on the deposit level arose directly out of the consultation that we carried out prior to embarking on the proposed scheme. The public consultation reinforced that the majority of respondents support a deposit of 15p or more. There is a tricky issue here, because the deposit has to be set precisely at a point that does not create a disincentive for people who are buying—it should not become a problem in the purchase—but that is not so low that it ceases to have the behavioural result that we want. Those are the main issues that we are considering.

I understand that there are some issues around the size of containers and so on that are creating some interest and debate. However, at the moment, I feel that to ensure that we do not start devaluing some containers in the eyes of consumers, having a flat rate is the best place for us to be.

I am happy to have a conversation with Maurice Golden if there are very specific issues that he wants to raise separately.

**Angus MacDonald (Falkirk East) (SNP):** Coincidentally, the Environment, Climate Change and Land Reform Committee has just completed a marathon evidence session on the DRS with a large number of stakeholders this morning, and we

look forward to the cabinet secretary visiting our committee next week.

While recognising the need for our system to be reflective of the needs of people in Scotland, will the cabinet secretary outline what lessons have been learned from international evidence, other than the Norwegian example, and from deposit return schemes that have been implemented elsewhere?

**Roseanna Cunningham:** Deposit return schemes operate in more than 38 countries around the world, and it is important that we remind ourselves of that. Evidence and experience from well-developed systems around the world have underpinned the development of our scheme. The key points that we have learned include the importance of a scheme being owned and operated by producers in line with the principle of producer responsibility, using the return-to retail approach to ensure that the scheme is accessible and fair, and having a deposit level that encourages the right behaviour from consumers. That point goes back to the answer that I gave to Maurice Golden about the deposit level and where we think it is best placed.

**Finlay Carson (Galloway and West Dumfries) (Con):** Although there is widespread support for a deposit return scheme, there are concerns over the data on current recycling rates that is being used, particularly when it comes to aluminium cans. Will the cabinet secretary explain why baseline data on recycling levels is being used to back up the business case when Zero Waste Scotland specifically stated that it should not be used for that purpose?

**Roseanna Cunningham:** I am not conscious of that statement from Zero Waste Scotland. Zero Waste Scotland is involved in all the discussions; it is very much key to what we have introduced and what we are doing and it is also very much involved with the implementation advisory group. If Finlay Carson gives me some context for the statement, I am happy to take up the matter with Zero Waste Scotland and query on what basis it made the comment. It is rather odd for me to hear it, because it is not what I am hearing from Zero Waste Scotland. Perhaps Finlay Carson and I can have a conversation about that.

### Diphtheria (NHS Lothian)

2. **Michelle Ballantyne (South Scotland) (Con):** To ask the Scottish Government what its response is to the reports of people being treated for diphtheria in the NHS Lothian area. (S5T-01879)

**The Minister for Public Health, Sport and Wellbeing (Joe FitzPatrick):** We have been informed by NHS Lothian that two related cases of

diphtheria have been confirmed in the Lothian area, with both patients having recently returned from abroad. All close contacts of those patients have been identified, contacted and followed up in line with nationally agreed guidelines.

The likelihood of any additional cases is very small, as most people are protected by immunisation given in childhood. In Lothian, 98 per cent of children are vaccinated against diphtheria by the age of 24 months.

The best way to avoid diphtheria while travelling is to be fully vaccinated against it. We encourage people who intend to travel abroad to visit the fitfortravel website, where they can access information on how to stay safe and healthy abroad, as well as destination-specific health advice.

**Michelle Ballantyne:** My thoughts are with the two patients who caught such a highly contagious bacterial infection, and I am sure that members will join me in that and in thanking the medical staff at NHS Lothian for their quick response in dealing with it.

The minister highlighted that it is important to get our children vaccinated when they are young by following the schedules that have been put in place and that we should seek advice when travelling. I welcome the fact that he has reiterated that and I hope that he will agree with me that people across the country should check that their vaccinations are up to date, particularly for diseases such as diphtheria, which requires a 10-year booster, especially if they are not sure.

**Joe FitzPatrick:** I thank the member for the way in which she has raised the question. It is a good opportunity for us to remind everyone of the importance of vaccinations in childhood and when travelling. Again, I recommend that people take a look at the fitfortravel website for advice and, if necessary, go and speak to their general practitioner about what vaccinations they should have.

**Sarah Boyack (Lothian) (Lab):** I thank the minister for his first answer and for mentioning the fitfortravel website. Can he not think not just about getting people immunised as children but about how to raise awareness of diphtheria and other contagious infections that can be widespread in other parts of the world? How do we get that message out to all ages to avoid people being hit by these diseases?

**Joe FitzPatrick:** To be clear, I again recommend that anyone who intends to travel abroad should visit the fitfortravel website and seek advice from their GP about the services that are available and what is required for their visit.

## Sheku Bayoh

**The Presiding Officer (Ken Macintosh):** The next item of business is a statement by Humza Yousaf on Sheku Bayoh—next steps. The cabinet secretary will take questions at the end of his statement. I encourage members who wish to ask a question to press their request-to-speak buttons as soon as possible.

14:18

**The Cabinet Secretary for Justice (Humza Yousaf):** As members will be aware, the Lord Advocate met the family of Sheku Bayoh yesterday to inform them of the outcome of the victim's right to review process in connection with the circumstances of Mr Bayoh's tragic death in 2015. Mr Bayoh died during an operation by police officers to restrain him, and I know that the thoughts of members from across the chamber will be with his family and friends at this difficult time.

Following a complex and thorough investigation and review, the Lord Advocate has confirmed that, on the basis of the evidence available, there will be no criminal proceedings against Police Scotland or individual police officers in connection with Mr Bayoh's death. The First Minister and I met the family today to express our deepest condolences and assure them of our commitment to establishing the facts surrounding this tragic incident. They are right to expect a full public examination of the circumstances of Mr Bayoh's death, and I stated my determination to put in place a process to deliver that.

Today, I can confirm that I will establish a statutory public inquiry under the Inquiries Act 2005 into the circumstances leading up to and following Mr Bayoh's death.

All deaths in police custody are subject to a mandatory fatal accident inquiry under the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Act 2016. The responsibility for establishing the FAI sits with the procurator fiscal, under the direction of the Lord Advocate. FAIs examine the cause of death and consider steps to prevent other deaths in similar circumstances.

In this case, however, the Lord Advocate, as head of the system for the investigation of deaths in Scotland, considers that the remit of an FAI would not allow all the issues that require to be investigated to be addressed. FAIs can examine circumstances and factors leading up to a death but not what follows it. In this case, the Lord Advocate has identified questions that an FAI simply could not examine. Those questions are about the early stages of the post-incident management of the investigation and they raise issues of public interest and importance. That

being the case, it is imperative that the circumstances leading up to Mr Bayoh's death and the events that followed it are examined in full and in public.

I am conscious that public inquiries are significant undertakings and that this is not a decision to be made in haste. As members will be aware, Mr Bayoh's family have been calling for a public inquiry for a number of years, and the First Minister made it clear that a public inquiry was definitely an option. When I met the family last year, I assured them that this Government shared the family's commitment to getting answers. On that basis, it is one option that I had been considering in advance of the confirmation yesterday of the Lord Advocate's decision—not to pre-empt that decision but to be prepared for this outcome. Now that we have confirmation that there will be no criminal proceedings in this case, and having examined all other options, I believe that it is right that, as a Government, we should hold a public inquiry. I have discussed that with Mr Bayoh's family, honouring my commitment to update them first. They were very clear in their determination to get to the facts surrounding Mr Bayoh's tragic death, and a public inquiry is now the surest way to do that.

The terms of reference of the public inquiry will determine its scope, direction and parameters, so it will be important to take the time to get them right. The inquiry will cover matters that would be covered by an FAI and a range of other issues, such as the post-incident management of the investigation. The formulation of the terms of reference will require discussion with the person appointed to chair the inquiry. I will also wish to discuss the draft terms of reference with those most directly affected by the inquiry, with a view to shaping a remit that is clearly focused. We must not lose sight of the purpose of the inquiry, which is to establish the circumstances leading to and following the tragic death of Mr Bayoh in order to identify any steps that could prevent deaths in similar circumstances and to improve the post-incident management following such deaths.

Let me be clear. For any independent scrutiny of this case to be rigorous and credible, it must address the question of whether Mr Bayoh's race played a part in how the incident was approached and dealt with by the police. In saying that, I am not prejudging the answer to that question; that will be for the inquiry, which will be independent of ministers. In order to do that effectively, the inquiry must be equipped with the necessary diversity of expertise and background to scrutinise the extent to which race was a factor in the case.

I will be discussing with the inquiry's chair how we can build diversity into the structures of the inquiry. The chair will also be instrumental in

helping to shape the terms of reference. The formal process directed to appointing a chair will begin shortly, and it will be important to ensure that the chair will command the confidence of those involved and indeed the wider public. That will include ensuring an appropriate level of expertise in taking forward the remit of the inquiry. That, too, will take time, but I will return to the chamber early next year to provide a full statement confirming the inquiry's terms of reference and the chair.

If systemic issues emerge that were causal or contributory factors in this case, it is right that the inquiry addresses them. While we must be careful not to expand the terms of reference beyond the inquiry's core purpose, not least to avoid further delaying the process for all involved, it is important that all relevant issues are covered. However, it is not intended that the inquiry will consider the wider framework for investigations into serious incidents involving the police, given that, as members will be aware, Dame Elish Angiolini is currently reviewing law and practice for complaint handling, investigations and misconduct in relation to policing. There might be areas of shared interest between that review and the public inquiry, but Dame Elish Angiolini's review is not investigating individual cases, whereas the primary purpose of the public inquiry will be to examine the circumstances of this specific case.

I am, of course, aware of other families who have lost loved ones in tragic circumstances and are looking for answers. My thoughts—and those of colleagues in the chamber—remain with those families. In a number of cases, complex investigations are still under way, while other cases might be subject to other processes, including the fatal accident inquiry process. Each of those cases will have its own distinct features, and it is important to allow those processes to run their course.

As I set out in my letter to the Justice Committee last week, I recognise that there are questions about the arrangements within the Scottish Prison Service and the national health service for handling deaths in prison custody. That is why I have asked Her Majesty's chief inspector of prisons for Scotland to undertake a review of the handling of deaths in prison custody. I have also asked Professor Nancy Loucks of Families Outside to work alongside HMCIPS and provide external expertise. The review will have a sharp human rights focus and will ensure that the voices of families of those in prison is heard.

Turning back to policing, it is worth noting that, since the establishment of Police Scotland, public scrutiny of policing has never been greater. That is understandably the case. It is essential that public and parliamentary confidence in the police

remains strong, and I know that members will share my view that police officers and staff across Scotland work hard to keep us all safe.

In its 2018-19 annual report, Her Majesty's Inspectorate of Constabulary in Scotland stated:

"we continue to be impressed by the determination of officers and staff to delivering an effective policing service to the communities they serve."

We know that a majority of adults also said that the police were doing a good or excellent job in their local area. As a Government, we remain committed to excellence in policing, and our commitment to protect Police Scotland's revenue budget has resulted in the organisation's annual budget increasing by more than £80 million since 2016-17.

Of course, policing by consent depends on accountability, and it is vital that the police are held to account when things go wrong. Having spoken to the chief constable regularly, I know that he values such accountability. I am clear that a public inquiry will provide the independent and robust mechanism that is needed to give us that clear understanding. As with all statutory inquiries, it will be inquisitorial rather than adversarial. It will also identify lessons and improvements for the future to help to prevent deaths in similar circumstances and to build trust and confidence in policing.

I want to finish by again expressing my condolences to Mr Bayoh's family and friends, who have been unwavering in their search for answers. I am confident that a statutory public inquiry under the 2005 act will provide the best means of establishing the circumstances leading to and following Mr Bayoh's tragic death.

**The Presiding Officer:** The cabinet secretary will now take questions.

**Liam Kerr (North East Scotland) (Con):** I am very grateful to the cabinet secretary for providing advance sight of his statement.

I associate myself and my party with the cabinet secretary's expression of deepest condolences to the family of Mr Bayoh. I understand their need for a full public examination of the circumstances of Mr Bayoh's death to establish the facts. We are therefore pleased that the cabinet secretary will establish a public inquiry into those circumstances under the Inquiries Act 2005, which will identify lessons and improvements.

A number of questions arise from the cabinet secretary's statement. Given that the tragic incident in question took place in 2015, it has taken four years to get to this point, so can the cabinet secretary give any more indication of the timescales that will be involved in setting up and conducting the public inquiry and any indication of

when it might report? Secondly, can he advise us what kind of inquiry it will be and the level of it—more specifically, will it be judge led? Finally, can he give us any further detail on why a fatal accident inquiry was not felt to be appropriate? Specifically, why was it not felt to be appropriate for looking into the questions that were identified by the Lord Advocate?

**Humza Yousaf:** I thank Liam Kerr for those important questions and the tone in which he asked them. I agree that there has been a long search for answers from the family of Mr Bayoh. I cannot comment too much on the reasons for those delays. As Liam Kerr will be fully aware, the investigation into whether there would be criminal proceedings was conducted independently by the Crown—rightly, there was no ministerial influence on that. The reasons for that length of time are for the Crown to answer and I am sure that that would have been part of the conversation that took place between the Lord Advocate and the Bayoh family yesterday.

In saying that, I think that there is a balance to be struck between ensuring that the public inquiry not only forensically examines the incident that we are discussing—the tragic death of Mr Bayoh—but looks at further potential systemic issues. However, it should not be so wide that it loses focus and therefore exacerbates the challenge, the difficulty and the hurt that the family have felt because of the time that it has taken to get to this point. There will be a fine balance to strike and that will be part of my discussion about the remit with stakeholders who have an interest in this as well as with the chair of the inquiry.

On Liam Kerr's question about whether the inquiry will be judge led, he will forgive me, but we need to take some time to have a discussion with stakeholders. I welcome any conversations with members of the Opposition as well. As I tried to say in my statement, it is important that, as well as having a chair, the inquiry has the appropriate expertise, particularly on issues to do with race and diversity; it is hugely important to build that expertise into the inquiry. We have seen that done in some inquiries down south, such as the Macpherson inquiry, but we have also seen where it has not been done correctly. There was a lot of criticism of the Grenfell inquiry because of a lack of diversity, considering the victims who were involved in that tragedy. We want to make sure that we learn lessons from inquiries that have taken place in Scotland and in other parts of the United Kingdom.

On Liam Kerr's FAI question, which again is a pertinent and important one, the Lord Advocate has said very clearly that an FAI would not be able to examine the post-incident management of the tragic death of Mr Bayoh. I should say that the

Lord Advocate is happy for me to say that on the record; that is why it is in my statement. He does not give me that advice as a law officer but does so in his remit as the head of investigations into deaths. Of course, we would not disclose advice from law officers.

For anybody looking objectively at the case, there are questions that have to be answered, not just on the lead-up to Mr Bayoh's death but on the post-incident management that followed. An FAI simply would not cover those areas, so the decision to have a public inquiry under the 2005 act is right in this case.

**James Kelly (Glasgow) (Lab):** I thank the cabinet secretary for advance sight of the statement and I offer my deepest sympathies to Mr Bayoh's family.

The circumstances in which Mr Bayoh lost his life are shocking in modern Scotland and it is unacceptable that nobody is being held legally responsible. From that point of view, I strongly support the cabinet secretary's announcement that there will be a public inquiry.

There is a concern in this case and in other cases about the lack of transparency around the Lord Advocate's decisions on non-prosecution and the granting of immunity to police officers and prison officers. Will the public inquiry therefore examine recent cases and review the protocol that the Lord Advocate follows in reaching a decision on non-prosecution or granting immunity for police officers and prison officers?

**Humza Yousaf:** I thank James Kelly for that question, which is an important but difficult one. He knows as well as I do the importance of the independence of the Lord Advocate. Of course, that does not translate into not being accountable. Although our judiciary and the Crown are independent of Government and of parliamentarians, that does not mean that they are not accountable for their decisions. The Lord Advocate is answerable to the Parliament and has, on occasion, answered questions on the very spot where I am standing.

Any decision for immunity would of course be a question for the Lord Advocate and for the Crown; I hope that James Kelly understands why I am answering in that way. It would be unacceptable for the justice secretary to make a decision on who should receive immunity from prosecution in a whole range of cases, and I think that James Kelly understands that. Equally, now that I have chosen to set up a public inquiry, I would understand the frustration of James Kelly and others if those who attended it did not give full and frank answers. There is a decision for the Lord Advocate to make in respect of immunity.

On the point about other cases, the public inquiry will look specifically at the Sheku Bayoh case. It will focus on that case, but it will look at some of the systemic issues around it. If systemic issues are raised, they may well be relevant to other previous cases. Of course, the focus of the inquiry will be on the unique circumstances around the tragic incident that took place involving Mr Bayoh.

**John Finnie (Highlands and Islands) (Green):** As with other members, our thoughts are with Mr Bayoh's family and friends. I thank the cabinet secretary for providing early sight of his statement. I want to push him a bit on Mr Kelly's question. Although it is entirely appropriate that the decision regarding criminal immunity is for the Lord Advocate, can the cabinet secretary say whether anyone has been granted criminal immunity in respect of the inquiry? Will the inquiry have powers to compel witnesses to attend? I am thinking particularly of former police officers, including the former chief constable Stephen House.

**Humza Yousaf:** I cannot add much to what I said to James Kelly on immunity. That would be for the Lord Advocate. I do not think that a determination has been made, although I caveat that by saying that that is my understanding thus far. However, any future decision on immunity will absolutely be for the Lord Advocate, so he would be answerable for such a decision.

I understand that, under the Inquiries Act 2005, witnesses can be compelled and not complying with an instruction from the chair of the inquiry could lead to offences being committed. That is why a public inquiry under the 2005 act, with all the powers that that grants the chair and the inquiry, is the right way to proceed.

**Liam McArthur (Orkney Islands) (LD):** I thank the cabinet secretary for providing early sight of his statement. I welcome the announcement in relation to the inquiry and I extend my condolences to the family and friends of Sheku Bayoh. The family have been left looking for answers for the past four years. At the same time, police officers have been left in limbo. As the cabinet secretary acknowledged, the public are potentially less safe as a result of lessons not having been learned.

To follow on from the questions from James Kelly, I appreciate the sensitivities around the issue, but surely four years is far too long to wait. Can we not look at ways in which the system can be speeded up and made more efficient so that other families are not put through the same sort of trauma as Sheku Bayoh's family have undoubtedly been put through over the past four years?

**Humza Yousaf:** I again reiterate how much I admire the family of Sheku Bayoh. In the four and a half years since the tragic incident, they have faced a number of obstacles, difficulties and hurdles, but they have been unwavering in their search for answers on what happened and on the follow-on after Sheku's death. Sheku's mother lives 3,500 miles away in Freetown in Sierra Leone. She is here today and she has often come to Scotland to be with her family. I can see from meeting her today that she is a rock of that family and that she wants to get the answers to the questions of why she lost her son and what on earth happened in the aftermath of that. I join Liam McArthur in his admiration for the Bayoh family.

On the substance of Mr McArthur's question, I know that he has often pressed on that point and he is right to do so. I agree that four and a half years is a long time to wait for answers. There are also questions about delays in FAIs. Again, the issue is very much in the Lord Advocate's remit, but I can give some reassurance. Members might be aware that the Lord Advocate has said publicly that he is looking at ways to reduce that delay, that he has been reviewing the reasons for it and that he understands the frustration of families surrounding it. I must be sensitive to the fact that such matters are in the domain of the Lord Advocate, who is independent. However, it is fair to say that he is not unaware of the frustration that delay can cause. If the Government can find any way to minimise that, I would be supportive of that.

**David Torrance (Kirkcaldy) (SNP):** As the member of the Scottish Parliament representing Kirkcaldy, I again express my condolences to Mr Bayoh's family and friends, who we can all agree have been unwavering in their search for answers. There has been much speculation about this tragic incident, so a statutory public inquiry will be the best means of establishing the circumstances leading up to and following Mr Bayoh's death. Does the cabinet secretary agree that we must now allow the forthcoming inquiry to do its job?

**Humza Yousaf:** David Torrance has made a crucial point. A number of questions have remained unanswered, which is my reason for instructing a public inquiry, but I am afraid that sometimes in that vacuum accusations that have been insensitive—that is the nicest word that I could possibly use; frankly, some of them have been smears—have been bandied around. That is not just deeply unhelpful; as members can imagine, they have also been incredibly hurtful for the families involved.

Sheku Bayoh was roughly my age when he died. He was a Muslim, as am I. He was also a member of a minority population living in Scotland, much as I am. Fundamental questions have to be asked not just about the events leading up to his

death but, frankly, about the processes that took place afterwards. As Cabinet Secretary for Justice, I want to have absolute confidence in the processes that exist in the justice system over which I preside, to ensure that such a death does not happen again. I hope that we would be able to prevent it but if, tragically, it were to happen again, I would want to have absolute confidence in the processes that would follow.

David Torrance is right. For all those involved and all who are stakeholders, emotions have run high. No doubt that is still true for Mr Bayoh's family, but I do not doubt that it is also true for the police officers who were involved. Perhaps everyone needs to understand that at the heart of the incident is a man who lost his life and a family who are devastated by that. Frankly, everyone should let the inquiry do the job that it is meant to do, which is to get to the truth and answer the questions that currently remain unanswered.

**Margaret Mitchell (Central Scotland) (Con):** I, too, extend my condolences to Mr Bayoh's family and friends.

Will the cabinet secretary confirm whether there is a mechanism to establish how often the decision not to prosecute has been taken where someone has died in either police or prison custody, and where concerns have been expressed about the action or conduct of Police Scotland or individual police officers, or the SPS or individual prison officers? Does he agree that making such information available is vital if we are to establish openness and transparency in such tragic circumstances?

**Humza Yousaf:** On the many occasions on which I have appeared before the Justice Committee, of which Margaret Mitchell is convener, I have seen her commitment to there being transparency throughout the justice system, and I hope that she recognises mine. Anything that the Scottish Government can do to achieve such transparency is crucial.

I reiterate that, as Margaret Mitchell knows, decisions on whether to prosecute or to give immunity from prosecution are very much for the Lord Advocate, who is independent. None of us—regardless of whether we are Government or Opposition politicians—should have a say in such matters or seek to influence them unduly.

I will take away Ms Mitchell's question about data and the number of individuals who have been prosecuted in similar circumstances of a death in police or prison custody. I will explore with the Crown Office whether such data exists and whether the Scottish Government can do anything more. We should not fear anything from there being additional transparency. I certainly do not.

**Jenny Gilruth (Mid Fife and Glenrothes) (SNP):** I, too, express my condolences to Mr Bayoh's family.

Although we must not prejudge the answer to the question whether Mr Bayoh's race played a part in how the incident was dealt with by the police, for any independent scrutiny of the case to be rigorous and credible it must address that very question. Will the cabinet secretary therefore confirm whether he intends that those conducting the inquiry should be equipped with the necessary diversity in both expertise and background?

**Humza Yousaf:** I do. I want to restate and re-emphasise that very point. We cannot simply remove the issue of race from that pertinent question. The question of race undoubtedly has to be answered. I do not prejudge the answer, but we have to allow the chair of the independent public inquiry to investigate and determine whether race played any part in how the police dealt with the incident.

Jenny Gilruth has made a hugely important point. In order to gain the confidence of our communities, Mr Bayoh's family and, I hope, the public at large, it is vital that the structures in this inquiry in particular and in any such public inquiry reflect both the expertise that we would expect when the question is being examined and the diversity of our communities. I will explore how to do that. There are examples of public inquiries—largely from England and Wales—that have managed to factor in that expertise. I will have a closer look at how to do that. As I have said, I will report back to the Parliament early next year, I hope.

**Claire Baker (Mid Scotland and Fife) (Lab):** I met Sheku Bayoh's family days after his death. That meeting was among the most affecting meetings that I have ever had as an MSP. I have seen the family display fortitude and resilience over the past four and a half years, and their loss deserves answers and the truth to come out. The cabinet secretary has made the right decision today, and I very much welcome it.

It is vital that the public inquiry has the family's confidence. The cabinet secretary said in his statement that he will discuss the draft terms of reference with those most directly affected by the inquiry. Will he explain what he intends by that? Who will that include? Was that a direct reference to the family?

**Humza Yousaf:** The short answer to that question is yes. Claire Baker will be aware that there will, of course, be other interested parties. I have not received a request from the Scottish Police Federation, for example, although that might well come. It is important to give confidence about the independence and impartiality of any

inquiry. When requests from interested and relevant stakeholders come in, I will give them due consideration, but Claire Baker can take it absolutely from my answer that part of the discussion will be with the family and, indeed, Mr Bayoh's legal representatives.

I join Claire Baker in saluting once again the fortitude and dignity that the Bayoh family have shown, and I thank her. I know that she has stood by the family and their calls for a public inquiry for many years.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** The cabinet secretary is aware that there are other families that have lost loved ones in tragic circumstances and are looking for answers. Will he confirm that each of those cases has its own distinct features, that a number of complex investigations are still taking place, and that it is important to allow those processes to run their individual courses?

**Humza Yousaf:** That is an important point for anybody who has lost a loved one in prison or police custody care. I completely understand their desire for a full and frank investigation and inquiry into the tragic death. However, Rona Mackay is right: every incident is unique and individual, and a range of processes can take place. Some incidents and tragic deaths that have been referred to previously in the chamber have gone through the process of a court trial; some have gone through an FAI process; and for some of them, the Lord Advocate is still determining whether there should be an FAI. However, it is important to absolutely understand where each individual family is coming from. We should absolutely empathise with that. In this circumstance, an FAI would simply not be adequate for all the reasons that I have outlined, which I will not rehearse again. That is why I have instructed a public inquiry under the 2005 act.

**Donald Cameron (Highlands and Islands) (Con):** I return to the issue of time, which many others have already raised. It is more than four and a half years since Mr Bayoh's death. On any view, that is a very long time for a family to wait for answers.

Setting aside the delays so far and looking to the future, will the cabinet secretary assure the chamber that the inquiry will be set up as quickly as is practicable while—plainly—not cutting corners in terms of the thoroughness of the investigation?

**Humza Yousaf:** Yes. Donald Cameron's question eloquently articulated what the challenge will be. We will need to ensure that there is no unnecessary delay, because, frankly, the family has suffered enough. In addition, I am certain that other stakeholders who have an interest in the

inquiry will want it to get under way and take place quickly. At the same time, there will be a need to ensure that we are thorough.

I think that this will be a public inquiry unlike any other that we have had in Scotland. On the questions that will be asked, there will be a need to build in either a panel or special advisers—I think that it will probably be a panel of expertise—to inform and sit alongside the chair in order to ensure that all the questions that need to be answered are, indeed, answered. At this stage, I do not want to commit to what the remit will look like. I will take some time—albeit not unnecessary time—to have a conversation with stakeholders around remit. Ensuring that the remit is focused and not too unwieldy, so that it can address still systemic issues, will be a challenge, but one that I am sure that we will be up to. Getting that balance right will be important. Clearly, whatever remit is decided on will have an effect on the timescales that are involved, as is the case in any public inquiry.

I give the absolute assurance that there will be no unnecessary delay on the Government's part. Equally, I hope that members understand—I am sure that they do—that it takes a bit of time to make sure that we get these things right.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** I also place on record my condolences to the family.

The cabinet secretary spoke about identifying a chair. Will he confirm for the chamber, and for those who are listening, the timeframe that he has in mind for that, for identifying any support for the chair and for reporting back to the Parliament when those developments are known?

**Humza Yousaf:** I should be able—and hope—to come back to the Parliament early next year; frankly, the earlier, the better. Sometimes, the processes for these things can take time. They are also not entirely in my gift. If we want a judge to lead the inquiry, that would necessitate a conversation with the Lord President, who would need to speak to the senators and make a judgment on who was available. That individual would then have to agree to lead the inquiry and accept our wish to build in expertise. I hope that we can get that done sooner rather than later.

I have been able to do only a limited amount of work in advance. Although I planned for this outcome as well as for the other outcome, we could not do much more than simply prepare and plan, because we had to wait for the Lord Advocate to make a decision in relation to any further criminal proceedings.

Some of this is in my gift, and I will try to do what is in my gift as quickly as possible, so that

there are no further delays for the Bayoh family, who have suffered enough.

**Anas Sarwar (Glasgow) (Lab):** My thoughts are with Sheku Bayoh's family and friends. I recognise the efforts of their legal team and, in particular, Aamer Anwar, who has relentlessly pursued the case. I also welcome and thank the cabinet secretary for today's announcement of a public inquiry. Although he is right to say that we cannot definitively say that race was a factor in the case, there is no doubt that there is structural racism in Scotland.

If we are to build confidence between our communities, tone is also really important. Will the cabinet secretary therefore take the opportunity to comment on the rather juvenile comments of the president of the Scottish Police Federation in relation to the case? I understand that he wanted to represent and defend his members, which is—of course—his right. However, at the same time, that cannot be allowed to undermine confidence in the case or the feelings of the Bayoh family or of ethnic minority officers in the police, who may also have challenges around issues of structural racism.

**Humza Yousaf:** Anas Sarwar always speaks on these issues with a lot of authority, and he articulated the problem and the sensitivities of the case very well. There is not much for me to add to what he said.

We must never forget that at the heart of this is a man not much different in age from Anas Sarwar and me. Like Anas and me, he was a Muslim; like Anas and me, he was a minority living in Scotland—who lost his life. Like Anas Sarwar and me, he had a loving family who have been fighting on his behalf ever since. There are other stakeholders and no doubt they have also faced challenges, but at the heart of this, somebody has lost their life, so anybody who attempts to dehumanise, smear or downplay the seriousness of the matter needs to take a very long hard look at themselves and think twice about what they are doing.

I associate myself with Anas Sarwar's remarks. Emotions are running high and people are angry and frustrated, but it is important to the memory of Sheku Bayoh—if nothing else—that all those involved conduct themselves in a way that is worthy of such a cause, and that we let the independent public inquiry do its job.

**James Dornan (Glasgow Cathcart) (SNP):** Following the confirmation that there will be no criminal proceedings in the case, it is right that the Government hold a public inquiry to get to the facts surrounding Mr Bayoh's tragic death.

To follow on from Mr Sarwar's comments, does the cabinet secretary agree that the onus is now

on all of us—those in the chamber and those online—to approach the matter with the sensitivity and respect that it deserves, which is the least that Mr Bayoh's family is entitled to from all of us?

**Humza Yousaf:** Yes—for all the reasons that I outlined in my answer to the previous question. James Dornan is right to mention parliamentarians, because we will also have a view on what happened; we will have watched documentaries and read newspaper reports, and we may have received briefings from different stakeholders, legal representatives and so on.

However, it is important that nothing is said to prejudice the independent inquiry and that we allow it to do the job that it is meant to do. I ask all colleagues—myself included—not only to show an element of consideration, but to be mindful of the fact that we are entering the inquiry stage. I will make sure that we keep Parliament updated on the next steps in that regard.

**The Presiding Officer:** I thank the cabinet secretary and members for their contributions.

## European Union Citizens' Rights

**The Deputy Presiding Officer (Christine Grahame):** The next item of business is the debate on motion S5M-19809, in the name of Ben Macpherson, on protecting the right of EU citizens in Scotland. I invite members who wish to speak in the debate to press their request-to-speak buttons now. I call Ben Macpherson to speak to and move the motion.

14:58

**The Minister for Europe, Migration and International Development (Ben Macpherson):** I am glad to open today's important debate but, unfortunately, I am also deeply disappointed that more than three years on from the 2016 referendum on membership of the European Union, EU citizens in our communities who are our friends, neighbours, colleagues and, in many cases, family continue to experience unnecessary and unpleasant insecurity and anxiety. Every member in the chamber will have constituents from other EU and European Economic Area countries who have, in the past three years, had to deal with unacceptable turbulence as they have tried to navigate the process of staying in a country that we are privileged that they have chosen to make and call their home.

Many EU citizens have been here for decades, and have set up businesses and raised their families in Scotland. They are part of Scotland, and we are Scotland together. Many are here to study in our colleges and universities and many play vital roles in delivery of public services. They are contributing to our shared culture and communities across the country.

The anxiety that has been felt is reflected in the Labour amendment. Because of that, and for other reasons, we will accept it. Amid the continued uncertainty, we must all, collectively, ensure that EU citizens continue to feel valued and welcomed in Scotland. We must do our best to provide reassurance on that. EU citizens are a welcome and integral part of communities across the country, so we want and, indeed, need them to stay.

Of course, we are all still EU citizens—we still enjoy the freedom to live, study, work, trade or travel across the 28 member states. However, when I talk about "EU citizens" today, I am talking about citizens from other EU countries. I am also talking about citizens from the EEA and European Free Trade Association countries who face the loss of their rights if Brexit happens. Although there are separate arrangements for Irish citizens, who will, no matter what happens, continue to benefit from the provisions of the common travel

area, some Irish nationals might wish to apply to the EU settlement scheme, especially if they have non-EU family members.

Just over a year ago, Parliament came to a general consensus on the significant economic, social and cultural contributions that are made by EU citizens to Scotland, and reaffirmed its support for our friends, neighbours, colleagues and loved ones who have done us the honour of making Scotland their home.

We want EU citizens to continue to feel welcome in Scotland, and we want them to retain their right to stay. The UK Government's EU settlement scheme has now been open for more than seven months: more than 92,700 applications have been received from EU citizens in Scotland. It is important to be clear that the number is of applications rather than of applicants. Given that an individual might need to submit multiple applications, first for pre-settled status and then for settled status, we all need to be careful about claiming certainty about the number of individuals who have successfully secured settled status. The UK Government has not published that more detailed information.

However, even the most positive interpretation means that, at most, only about 42 per cent of the estimated total number of EU nationals living in Scotland have applied to the scheme. The EU settlement scheme figures clearly show that there is a challenge to increase application rates, especially among communities that are vulnerable or remote.

Although the Scottish Government has questions about the EU settlement scheme, we are committed to working with others to support EU citizens in Scotland. Although the UK Government has said that EU citizens are not required to apply to the EU settlement scheme until December 2020 at the earliest, we remain deeply concerned that EU citizens could fail to secure settled status due to lack of awareness of the scheme and of the requirement to apply.

**Alex Rowley (Mid Scotland and Fife) (Lab):** In Fife, many voluntary organisations have come together to work on that. I know that the Government has put money into that effort, but does the minister accept that we will need more resources to fund the third sector to reach as many people as possible?

**Ben Macpherson:** If Mr Rowley has details of those organisations, I encourage him to feed them into my office as part of our on-going thinking about how we develop the stay in Scotland campaign, which we launched as an important mechanism to raise awareness of the EU settlement scheme, and to highlight how much the Scottish Government values the contributions that

are made by EU citizens who live and work here. So far, the Scottish Government has committed more than £1 million for provision of information, advice and support to EU citizens in Scotland to fill the void that is being left in too many cases by inadequate UK Government provision.

The campaign is one of many steps that the Scottish Government is taking to support EU citizens. We are also funding Citizens Advice Scotland to deliver a crucial advice and support service for EU citizens and their families who might need additional help, and we are working with organisations such as the 3million and the Citizens Rights Project to provide support and advice for EU citizens, and to deliver across Scotland a series of events for EU citizens to raise awareness about what they need to do to stay.

Although the Scottish Government encourages people to apply to stay, we empathise with EU citizens who might be wary of applying to a scheme that seems to be beset with technical and operational problems. Members will have seen media reports about cases of EU citizens who have been awarded incorrect status, cases of EU citizens who have been living here for decades who are struggling to prove their residence, and cases of EU citizens who are waiting far longer than the time that the Home Office estimates is needed for processing before a decision is made.

The Scottish Government has been clear, for some time now, that EU citizens should not have to apply to retain their right to live, work and study in this country. It is why we have consistently called for the EU settlement scheme to be a declarative registration system instead of a constitutive application system. That is a point of principle. We have called for such a system because we, like many others across the UK, are deeply concerned about the consequences for EU citizens who do not apply by the deadline or who do not apply at all. A declaratory system would make the repercussions of missing the application deadline far less severe, because registration under a declaratory scheme would involve confirming rights, rather than acquiring rights through application, as is the case under the current settlement scheme.

The Windrush scandal demonstrates clearly the dangers of failing to safeguard the rights of EU citizens. Removing the need to make an application, and consequently avoiding the threat of refusal, would best protect the rights of EU citizens who live here. Brandon Lewis's comments last month to the effect that EU citizens might face removal from the UK if they do not apply in time will do nothing to ease concerns. It is completely wrong that EU citizens potentially face being dragged into the current UK Government's

immigration policies that have resulted in the hostile environment.

At any point since the referendum in 2016, the UK Government could have introduced legislation to protect fully the rights of EU citizens. It chose not to do so and, as a result, has left EU citizens in an unacceptable limbo. The UK Government still has the power to give EU citizens clarity and certainty, and the Prime Minister should implement his clear commitment to provide EU citizens with

“absolute certainty of the right to live and remain”—[*Official Report, House of Commons*, 25 July 2019; Vol 663, c 1459.]

through a guarantee in law.

**Adam Tomkins (Glasgow) (Con):** The minister used the expression “hostile environment”. On immigration policy post-Brexit, the Home Secretary has said that the current Government will introduce

“a new, fairer immigration system that prioritises skills and what people can contribute to the UK, rather than where they come from.”—[*Official Report, House of Commons*, 4 September 2019; Vol 664, c 10WS.]

How is that a “hostile environment”?

**Ben Macpherson:** Adam Tomkins should consider what people from outwith the EU have experienced as a result of the hostile environment policies that have been applied to asylum seekers and others—at Dungavel, for example. On immigration policy, he should also consider the fact that, in recent days, Michael Gove has painted a picture that suggests that freedom of movement has put strain on public services and has had a negative effect on British society. It is deeply dangerous to say that at this time. Even the UK Government's Migration Advisory Committee's analysis proves that EU citizens make a positive and constructive, vital and enriching contribution to our society. We have benefited from freedom of movement, so at this time we should stand up for the benefits of migration, and not spread fear and undue alarm. That is what the UK Government has done in recent years, and it continues to do so, which is deeply disappointing.

The next UK Government should introduce primary legislation as soon as possible to set out the rights of EU citizens who are resident in the UK at the point of the UK's leaving the EU. That would, at the very least, guarantee the provisions for EU citizens that are set out in the withdrawal agreement.

What is wrong with the current proposals under the EU settlement scheme is that the UK Government is, in effect, creating two classes of EU citizens. The first is people who receive settled status, who will be able to stay in the UK permanently and will have their rights fully protected by law. The second, in stark contrast, is

people who are given only pre-settled status. EU citizens who have been resident in the UK for less than five years are eligible to apply only for pre-settled status under the current scheme. That is cause for concern, because that status is more precarious than settled status and it does not give people a permanent right to stay here. There is also a concern that the rights of people with pre-settled status could be diluted in the future and changed by secondary legislation.

Also, people with pre-settled status will have to make a further application to the scheme once they have accrued enough residence time for settled status. However, there is a real danger that they will not remember to reapply or will mistakenly believe that they did everything that they needed to do when they applied initially. We are still waiting for the UK Government to confirm that applicants will be reminded to make another application before their temporary leave runs out.

However, even if they are, that seems to be costly, nonsensical and bureaucratic. EU citizens could be better protected by disapplying the requirement to accrue five years residence and instead granting all successful applicants full settled status. That would represent a decisive action to secure clearly the rights of all EU citizens who are resident in the UK at the point—when and if it happens—that the UK leaves the EU, which we hope it will not. It would avoid the creation of separate classes, each with different rights and statuses, and would, by creating greater clarity, remove the requirement for some individuals to apply twice to secure their long-term right to remain in the UK.

Additionally, scrapping pre-settled status in favour of granting full settled status would be a simple step towards mitigating possible unfair treatment based on status, and would reduce unnecessary bureaucracy for the UK Government and for people who are delivering front-line services and those who access them.

Either establishing a declarative system or ensuring that all EU citizens are granted the more secure settled status would greatly improve on what is on offer at the moment, and would provide a very welcome sense of certainty for EU citizens and all of us, underpinned by primary legislation.

What is more, EU citizens must be given the option of having physical proof of settled status, if requested. There are already concerns concerning anecdotal examples of EU citizens being asked for their status by employers and others, as was highlighted by the evidence from the Scottish Council for Voluntary Organisations for today's debate. We need to be careful about potential discrimination that is emerging: we need to keep a constant watch on whether it is developing and make sure, particularly at the moment, that we

emphasise to employers, housing providers and those who provide financial services that EU citizens have full rights under freedom of movement. We need to raise awareness of what their rights will be under settled status. The removal of pre-settled status would make that a lot easier.

EU citizens play a crucial role in our economy, our public services and our communities. Whether they have lived here for months or many years, Scotland is their home. They are welcome here and we want them to stay. My call to colleagues across the chamber is this: let us speak with one voice to make EU citizens feel valued and welcomed, let us work together to encourage and support them to stay, let us continue to make every effort to protect their rights to stay in Scotland, and let us urge any UK Government to do that, too, after 12 December, by creating a declarative system and awarding full settled status.

I move,

That the Parliament welcomes citizens from elsewhere in the EU, the EEA and Switzerland who have used their right to freedom of movement to come to Scotland, and recognises the significant contributions that such EU citizens make to Scotland and the rest of the UK socially, culturally and economically; acknowledges that EU citizens enrich Scotland and are an integral part of communities across the country; notes that the approach of the UK Government towards the rights of EU citizens since 24 June 2016 has created long-running insecurity and anxiety for millions; emphasises that EU citizens maintain their rights under freedom of movement until if and when the UK exits the EU; believes that EU citizens should not have to apply to retain rights they already have if the UK exits the EU and freedom of movement ends; notes that the establishment of a declarative system and the removal of the requirement to apply to the UK Government's EU Settlement Scheme would go some way to alleviating the current insecurity many people are experiencing; believes that the rights of EU citizens must be enshrined in primary legislation, and proposes that, if a declarative system is not established in law, the UK Government should immediately disapply its requirement that EU citizens accrue five years' residency to obtain full settled status, therefore removing the less secure pre-settled status, and considers that in all cases EU citizens must be given the option of receiving physical proof of status.

15:13

**Donald Cameron (Highlands and Islands) (Con):** I am pleased to open for the Scottish Conservatives, and I will take the opportunity to agree, where I can, with the minister. There is more common ground here than some would acknowledge.

I agree that EU citizens who live and work in our country are highly valued. I agree that they make an extraordinarily important contribution to our society, culture and economy, in the same way that all our citizens do. I agree that we need to

encourage students from the EU to continue to come and study in our universities. I agree that we must be an open and tolerant society, and that people who live in EU countries should feel safe visiting, living and working here.

However, where I part company with the minister is on his knee-jerk criticism of the UK Government, which time and again has committed to protecting the rights of EU citizens who currently live in the UK.

If anything, the current Administration and Prime Minister have gone further and faster than Theresa May and her Government when it comes to providing certainty to those EU citizens. The incessant scaremongering by the Scottish National Party Government over the rights of EU citizens after we leave the European Union is therefore ill-judged and deeply hypocritical.

**Ben Macpherson:** Will Donald Cameron clarify to members whether the Scottish Conservatives agree with Michael Gove's assertions in the past few days, which undermine the reality that EU citizens have contributed a net benefit to this society and the overarching sense, which we should all feel and consider, that EU citizens have deeply enriched our society in many ways? Will Donald Cameron condemn Michael Gove's statements?

**The Deputy Presiding Officer:** That was a long intervention, for which I will give Mr Cameron some time back.

**Donald Cameron:** Thank you, Presiding Officer.

I will not rise to what the minister said. He heard what I have said in great detail in the past two minutes—

**Adam Tomkins:** Absolutely. You are grandstanding, Ben. You are better than that.

**Donald Cameron:** —about the views of the Conservative Party when it comes to—

**The Deputy Presiding Officer:** Just a minute. Mr Tomkins, you have got mumblingitis. You have mumbled throughout and I want you to stop, because you have nine minutes at the end of the debate and you can mumble to your heart's content then. Thank you, Mr Cameron.

**Donald Cameron:** Thank you, Presiding Officer.

The minister has had ample opportunity to listen to what I have had to say about the Conservative Party's views when it comes to valuing our EU citizens.

The fact is that the SNP demanded that any Brexit deal respect the rights of EU citizens. However, the current European Union (Withdrawal

Agreement) Bill would do just that. The minister said in his speech that the SNP wanted clarity on that, but it is there in article 10 of the withdrawal agreement. The SNP voted against the bill last month at its second reading, although the legislation would protect EU citizens after we leave the EU. The SNP also voted against Theresa May's European Union (Withdrawal Agreement) Bill three times. Thus, at a number of points this year, the SNP's actions have led to the failure to resolve Brexit and pass a fair Brexit deal that would protect the economy, jobs and those EU citizens who have made Scotland their home. Perhaps you will understand, Deputy Presiding Officer, why the Conservative benches treat the usual platitudes and grandstanding on the SNP benches with a pretty hefty dose of scepticism, given the SNP's failure to support legislation that would guarantee the rights of EU citizens after we leave the EU.

I turn now to the substance of the Government's motion. I reiterate that my party supports the 221,000 EU citizens who are resident in Scotland. As a Highlands and Islands MSP, I know all too well what a significant contribution they make to the local economy. Up to 10,000 EU citizens are employed in our food and drink sector, and more than 4,500 EU citizens work in the Scottish fishing industry. I will give members a local example. I recently visited the Kallin Shellfish Ltd factory in North Uist to discuss potential challenges facing that sector in the Western Isles. While I was there, I was informed about two fishermen who had moved over from Poland and established their own scallop fishing business in 2009. They have been going strong since then, supplying fresh scallops to the Kallin factory and they recently invested in a new, purpose-built scallop vessel. They are optimistic about the future of their business. Kallin Shellfish noted that although Brexit would provide short-term challenges, it would also provide long-term opportunity. The example that I have just given is only one example of the important contribution that EU citizens make to our country and, as in that case, our remote and rural communities in the Highlands and Islands.

EU citizens make a significant impact in not just our rural economy but academia, given that some 19 per cent of Scotland's academic researchers come from the EU, and the tourism sector, where some 21,000 EU citizens work. All of that reiterates the need to secure a Brexit deal that will allow Scotland and the rest of the UK to continue to attract talent and skills from the EU. The Royal Society of Edinburgh has stated that

“the UK should promote a narrative of being ‘open for business’ and seen as a welcoming destination for immigrants. It must be clear that, in particular, skilled and talented migrants are both required and valued.”

I could not agree more with that statement. I believe that, by seeking to secure the rights of those who already live and work here, the European Union (Withdrawal Agreement) Bill does what that statement says, as do some recent announcements that add to the message that the UK is open to those who want to work and contribute to our economy and society, such as the announcement that the number of places allocated through the seasonal agricultural workers scheme will be increased from 2,500 to 10,000.

**Annabelle Ewing (Cowdenbeath) (SNP):** The member will be aware that such organisations as the National Farmers Union have said that, UK-wide, we need at least in the order of 80,000 seasonal workers. How on earth does the 10,000 revision fit into that?

**Donald Cameron:** The 10,000 figure follows the express recommendation of the Scottish Affairs Committee—chaired by Peter Wishart, no less—which stated that there should be an expansion of the seasonal workers scheme to 10,000. Of course, once the required objective is reached, the grievance machine cranks into action and the goalposts are moved.

There is also the current proposal to establish a new national health service visa to help encourage more healthcare professionals to come and work in the UK. That will undoubtedly have significant benefits for Scotland, given the disastrous manner in which the SNP Government has failed to manage and plan for our NHS workforce. There was the announcement in September that the post-study work visa would be reintroduced, which will not only provide security for those who have chosen to study here from abroad, but will provide the incentive to stay in the UK and to further enhance our economy and culture. In each respect, that highlights the commitment of the UK Government to expand opportunities to work in our country, and importantly, ensures that we continue to welcome new citizens to the UK.

Given the minister's remarks concerning the EU settlement scheme, I feel it is only right and proper to address that directly and to reassure any EU citizens watching this debate that we welcome them and that this process is not obstructive, but a necessary one. The settled status scheme ensures that access to benefits and other state services will remain unaffected. It requires applicants to prove their identity, show that they live in the UK and declare any criminal convictions. This scheme is necessary so that the position of EU citizens who remain in the UK is clear and known, and I believe this scheme is the best means to do that. Many people have already signed up to the scheme, with some 1.8 million people applying up to the end of September 2019,

of which 92,700 have come from Scotland. Some 24,700 of those applications were made in September alone. Up until the end of September, more than 1.5 million applications have been settled, of which 61 per cent have been granted settled status, and 38 per cent granted pre-settled status. Back in March this year, the Home Office announced a £3.75 million advertising campaign to highlight the scheme, and just a few weeks ago announced an additional £1 million to further advertise it. It is patently clear that these are not the actions of a Government that is discouraging EU citizens from remaining in the UK, but one that is actively trying to help people register with the scheme prior to the deadline in December 2020.

I also note the points raised by the minister concerning the UK Government's white paper based on proposals from the Migration Advisory Committee. There has been a significant degree of misinformation about this matter, and I shall touch on it briefly. First and foremost, it should be noted that the white paper is just that, and not definitive UK Government policy. The measures proposed are proposals for consideration only. The Home Secretary at the time, Sajid Javid, noted when it was published that

"it is not the final word. Rather, it is the starting point for a national conversation on our future immigration system. And I'm pleased to announce that the government will be launching a year-long programme of engagement across the UK to ensure a wide range of views are heard".

**Stuart McMillan (Greenock and Inverclyde) (SNP):** Will the member give way?

**Donald Cameron:** I am sorry, but I will not.

In September, the UK Government announced a review of some of the proposals around a points-based system and salary thresholds. The review ended earlier this month and will be published in due course. However, a points-based system is something that was supported by the SNP's white paper for independence, which said:

"We plan a controlled points-based system to support the migration of skilled workers for the benefit of Scotland's economy".

That is what the UK Government is moving towards across the whole of the UK, so I look forward to that being welcomed by others shortly. The white paper proposed a range of measures that we broadly welcome, including the proposal that,

"there will continue to be no limit on the number of international students who can study in the UK",

and the introduction of a streamlined application process for those who are visiting or coming to work or to study.

We want Scotland to be an open, tolerant and welcoming country for new talents from around the world, including the EU, which allows our society

to benefit as a result. We support the major contribution of EU citizens; we want them to stay after we leave the EU, and we welcome their continued contribution to our country.

People are fed up with the scaremongering on the status of EU citizens. It is high time that the SNP stopped politicking on this sensitive issue and got behind the UK Government as it navigates a Brexit deal that will secure the rights of EU citizens, deliver on the referendum result and allow Scotland to prosper.

I move amendment S5M-19809.2, to leave out from “notes that the approach of the UK Government” to end and insert:

“further acknowledges that the Withdrawal Agreement negotiated in October 2019 guarantees the rights of EU citizens living in the UK and ensures that EU citizens can continue to live and work in the UK after it leaves the EU through the EU Settlement Scheme; welcomes the announcement that the number of people permitted to work in the UK via the Seasonal Agricultural Workers Scheme will increase from 2,500 to 10,000; further welcomes proposals to introduce a new NHS visa, which will help towards resolving Scotland’s NHS workforce crisis, and supports the continued efforts of the UK Government to ensure that the UK continues to be a place that attracts the best and brightest talents from around the world.”

15:25

**Alex Rowley (Mid Scotland and Fife) (Lab):** In a briefing from the Scottish Council for Voluntary Organisations, it points out that the current settled status scheme places the human rights of EU citizens at fundamental risk—their right to their private and family life, work, health and social security are all undermined.

EU citizens have been living here as a right but will now be required to apply for permission to stay in their own homes and communities. That cannot be right, and it is why we need to be clear that, if the UK leaves the European Union, the EU settlement scheme must be changed.

Presiding Officer, we know that many lies were told in the 2016 EU referendum campaign, but I draw your attention to the fact that, in that referendum, it was promised that there would be

“no change for EU citizens already lawfully resident in the UK”,

and that EU citizens would

“automatically be granted indefinite leave to remain in the UK and will be treated no less favourably than they are at present.”

Yet, under the current scheme, those promises cannot be delivered. Many EU citizens and family members will struggle to obtain their status due to a variety of factors, including a lack of awareness about the scheme and lack of support, or difficulty, in obtaining documentation.

As I mentioned to the minister, in my home kingdom of Fife, the third sector is doing a lot of hard work to raise awareness and has set up the EU settlement partnership to ensure a focused approach to raising awareness and supporting and providing assistance to people with their application.

Nina Munday, who is the manager of the Fife Centre for Equalities, expressed the importance of the partnership and said:

“The settlement scheme is a very complicated process and what we are trying to do is to make it easier for an individual to apply, especially people who need additional support. What some people don’t realise is that they have to apply for every single person in the household.”

I am also pleased that Citizens Advice and Rights Fife has now appointed a dedicated EU settlement scheme support worker to enable the service to focus on people who might experience difficulty in accessing or using required technology to complete their application, might find it difficult to get the evidence that is needed to apply, or are at greater risk due to personal circumstances and have specific immigration or residency issues. The front-line services in Fife are therefore very clear that there is a major problem here that must be addressed.

As the SCVO has stated, no comparable application scheme anywhere has ever succeeded in reaching 100 per cent of its audience, and it is highly unlikely that the UK Government will manage to do so.

The SCVO says:

“We know that it is the most vulnerable in society, including elderly and disabled people ... and ... children, who are at greatest risk of falling through the cracks”.

It also points out that

“There are many EU citizens at risk of missing out on secure immigration status. This includes, for example, women who have experienced domestic violence, victims of trafficking, older people, those without online access, those with language or cultural barriers, and those who are isolated and have less contact with authorities.”

According to the latest population estimates, 219,000 EU nationals, not including students, were living in Scotland in June 2017. That accounts for just over 4 per cent of the population. Between 2000 and 2015, 86 per cent of Scotland’s population growth was down to immigration.

We know that we need more growth in the working-age population, so the nasty party, with its message of taking control of our borders, has deliberately tried to stoke up an anti-immigrant message when the opposite is true. We need more people to make their lives here, to work and contribute to the overall wellbeing of our country and society. Indeed, economic analysis from the Scottish Government found that

“each additional EU citizen working in Scotland contributes a further £34,400 in GDP.”

The report estimated the total contribution of EU migrants as approximately £4.42 billion per year. We clearly need to resolve this matter.

In a briefing, the British Medical Association said:

“The NHS cannot afford to put up barriers to medical or other healthcare staff, or to deter staff from coming to work in the health service at a time when they are needed the most.”

It states that the NHS has always relied on international doctors to provide a safe, high quality and reliable level of service for patients, and to fill gaps in the medical workforce. In 2018, almost 85,000 doctors working in the NHS—approximately 37 per cent of the medical workforce—received their primary medical qualification from a country outside the UK. Those highly skilled doctors from the EU and overseas are essential members of the UK’s medical and academic workforce. They have enhanced the UK’s health, higher education and research systems over the years, improving the diversity of the profession to reflect a changing population, bringing expertise to the NHS and higher education, and filling shortages in specialties that might otherwise have struggled to cope.

Scotland will continue to need to recruit from the EEA and overseas, simply and flexibly, to sustain staffing levels across the NHS in years to come. We know that, so anyone who bought into the lies of this Tory Brexit should look at what the medical professionals say.

Scottish Labour believes that the settled status scheme must be reformed to make it simpler, and to ensure that EU citizens retain their rights in our country. Nothing else will do.

I move amendment S5M-19809.3, to leave out “must be enshrined in primary legislation” and insert

“residing in the UK at the point of EU exit, or the end of the transition period in the case of an agreement, must be enshrined in primary legislation; notes the recent report by Robert Gordon University and Feniks, *How Brexit Impacts EU Citizens’ Mental Health and Wellbeing Research Findings*, and its findings that EU citizens in Scotland have experienced anxiety, and experience feelings of being unwelcome and rejected, with some reporting experiences of discrimination related to Brexit”.

15:33

**Liam McArthur (Orkney Islands) (LD):** I am grateful for this opportunity to reiterate the unwavering support of Scottish Liberal Democrats for the rights of EU citizens in Scotland and across the UK.

I have an enormous amount of respect for Donald Cameron. He has always been thoughtful and considered in his contributions. I have listened carefully to what he had to say, and what he said is simply not borne out by the reality on the ground, or in the lived experience of those at the sharp end, such as EU nationals, EEA nationals and others.

On the accusations of scaremongering about the situation faced by EU nationals in this country, Alex Rowley was right to suggest that it is a bit rich for those accusations to be coming from the party that has been at it and scaremongering on immigration in the run up to the Brexit referendum and since.

There are many tragedies in the self-inflicted harm of Brexit. The truth is that any form of Brexit will be damaging to the UK. However, it is hard to think of an aspect of Brexit that reflects us in a poorer light than the way in which successive Tory Governments have sought to use EU nationals in this country as pawns in a wider political game of brinkmanship. Theresa May made no attempt to disguise that. Boris Johnson and colleagues have positively revelled in it. For them, ending freedom of movement is the holy grail, as if removing rights that we currently have is a good thing.

Even arguing that it is about removing rights that others have makes little sense. Economically, culturally and as a society, to put up barriers, close ourselves off and make our country less open or welcoming is akin to cutting off our nose to spite our face. As the motion makes clear, in-migration has enriched our communities and our country. Turning our backs on that risks making us poorer and less able to meet the challenges that we already face. It is a fact, for example, that Scotland already struggles to cope with skills shortages in key areas. Rural parts of the country have some of the most acute teacher shortages in Europe. Last summer, reports began emerging of a decrease in the number of EU teachers applying to the General Teaching Council for Scotland. Until the end of June 2018, only 14 EU teachers applied for registration—a dramatic drop compared to previous years, when the figure was nearer 200.

Even so, in March this year, 523 teachers from EU countries were still registered to teach in Scotland. One of those is a constituent, Antoine Pietri. Antoine recently wrote to me to explain what he has been put through in recent years—an experience no doubt all too familiar to many in a similar position in communities across Scotland and the rest of the UK. Antoine says:

“I have felt deeply offended and discriminated against by a country which, so far, had been very good to me and which, in return, I’ve been very grateful towards. I have been employed by Orkney Islands Council as a French Assistant and then as a teacher, since 24th August 1994, the day I entered the UK and made my life here in Orkney”.

He adds:

“For over a quarter of a century, I have shared my knowledge and trained young people across the islands, on Hoy, Stronsay and Sanday and I now teach their children, I’ve been involved in charity work, been a committee member of various associations and I’m now a trustee of the Friends of St Nicholas and I could go on. Doesn’t it look like I’m settled enough already? Why should I have to prove it to the UK Government?”

Why indeed?

That Brexit effect is not limited to our education system. Like the rest of the UK, Scotland has an ageing population. The number of people aged 75 and over has increased by almost a third in the past 20 years. Discouraging EU citizens from coming to the UK—or staying—will have potentially disastrous effects on the ability of our NHS and care services to meet the consequences of the demographic challenges that we face. The Tories’ amendment heralds their proposed NHS visa as some sort of saviour in that regard. Nothing could be further from the truth. Surcharging EU health professionals £400 a year to work in our NHS will do nothing to stem the exodus of EU nurses leaving this country—5,000 in the past two years. The NHS currently relies on 10,000 doctors and 20,000 nurses from elsewhere in the EU. Slapping on a nurses tax is no way to persuade them to stay, or others to come in the future.

Meanwhile, a newly qualified general practitioner looking to make her home in Orkney has found herself embroiled in the fallout from Brexit. Writing to me recently, she explained how obstructive the Government’s registration scheme is, and how impractical it is for those, like her, who live and work in island communities. To apply for the scheme without an Android phone, my constituents were initially forced to travel to Edinburgh to make the application at an identification checkpoint—a process as inconvenient as it was demeaning. In the case of my GP constituent, it means that despite early access to the application process, her settled status has still not been confirmed.

She is by no means alone. I appreciate the minister’s comments about the reliability of some of the figures, but it appears that around 2.7 million EU citizens in the UK are still without settled status. There may be those who do not wish to apply, but to put in place policies that deter those who do is self-defeating. We simply cannot afford to take such an approach, given the gaps that we already have in key parts of our workforce. If we force our friends, neighbours and colleagues to be processed through a settlement scheme, we must be clear what that entails. The settlement scheme is not intended to make anyone feel welcome. In that respect, it performs its function superbly well. It does not confirm rights in an

empathetic or positive way. It interrogates the decision of individuals and families to come to this country in the first place. It hangs a threat of deportation over the heads of people who have offered to our country their skills, creativity, experience and so much more. These are our fellow citizens, whose contribution to our communities and our country goes well beyond the economic. They help to shape our identity and who we are. They are our friends, neighbours, work colleagues and family. They deserve better. For my two constituents and thousands like them across communities in Scotland and the UK, we must do better. I am in no doubt that the best way to do that is to stop Brexit. On that basis, I support the motion, and the amendment in the name of Claire Baker.

**The Deputy Presiding Officer:** We move to the open debate. Speeches should be of six minutes, although we have a little time in hand for interventions.

15:40

**Annabelle Ewing (Cowdenbeath) (SNP):** I am pleased to have been called to speak in this important debate, for the position of EU citizens in Scotland is an issue that is important to me on a personal as well as a political level. I have very close friends who are EU nationals who have made their lives here over the past 30 years or so. They have set up businesses here, they have paid their taxes and their national insurance contributions here, they have created employment here, they have met their partners here, they have had children here and they hope to retire here.

Although my friends have applied for settled status, they have done so with a heavy heart and it has caused much upset for them and their families, because they feel as though they have been othered by the UK Government—that is to say, their participation in our society is no longer based on rights but is based, instead, on the vagaries of administrative policy that is driven by the anti-immigration rhetoric of Westminster. They also feel a great sadness that the UK has embarked on such a course, well remembering the history of the continent of Europe and the fundamental objective of the EU, which was to bring peace to a war-ravaged Europe through trade and co-operation.

Turning to the EU settlement scheme, a subject that I spoke about in the members’ business debate that I secured in March this year, I reiterate that my objection to that scheme is first and foremost one of principle. As a lawyer by trade and one who practised European Commission law in Brussels for some 10 years, I find it abhorrent that the UK Tory Government is forcing individual citizens who have legally acquired rights, further to

international treaty, to make an application for rights that they already have.

Aside from that fundamental objection, the practicalities of the scheme leave a lot to be desired. As we have heard, they take no account of the position of many individuals who do not have easy access to the online application system. Importantly, as we have also heard, the successful applicant does not receive a physical piece of paper at the end of the process—rather, there will be an electronic link only. I wonder who in this chamber would be satisfied with such an approach if it was their family member who was placed in such an invidious position.

Given the dreadful record of the UK Home Office on immigration matters in general, surely we should all feel uncomfortable that it is that dysfunctional department that will hold such sway over people's lives. In that respect, we must remember that there is currently no proper right of appeal—in the first instance, there is provision only for an administrative review.

Taking all those points into account, I wholeheartedly wish to support the calls from the Scottish Government, the SCVO, the Human Rights Consortium Scotland and others for the system to be overhauled and for a declaratory system to be put in its place. That would avoid the need for citizens to make applications and would remove the threat of refusal, except in the most extreme circumstances. Given that the EU27 have the option of proceeding with such a system for UK passport holders who are living in their countries, there is no reason why the UK cannot so proceed here. Indeed, a declaratory system is a much fairer approach, as it removes the uncertainty and anxiety that surround the process of applying for settled status. By removing the role of the Home Office as judge and jury, such a system would be much more likely to increase the number of people who applied.

As we have heard, the number of applications for settled status has been on the low side to date. Each of us must do all that we can to encourage our fellow citizens from other countries in the EU to stay here, for our country is enriched by EU nationals choosing to make Scotland their home. Our economy is also boosted by their contributions in many sectors, including in the food and drink sector. For example, many EU nationals form part of the 600-plus-strong workforce at Mowi's salmon processing operations in Rosyth in my constituency.

EU nationals are driving our population growth, which is vitally important given the demographics of Scotland, which has an ageing population. As we have heard, the Scottish Government is doing all that it can to help people to be able to stay, with

its stay in Scotland package and guidance for EU nationals and their employers.

Funding from the Scottish Government has been made available to Citizens Advice Scotland. Indeed, in my constituency of Cowdenbeath, the local bureau has a dedicated EU settlement support worker who has been in place since April. By the end of September, they had already dealt with some 60-plus cases.

Who would ever have imagined that we here in 21st century Scotland would live to see the day when such an ugly policy would be the law of the land? This is not who we are in Scotland. We did not vote for this and we will not put up with this.

It is important to reiterate once again what Scotland's First Minister, Nicola Sturgeon, said to each EU citizen in Scotland following the announcement of the result of the EU referendum in 2016—a result in Scotland that saw 62 per cent of our population voting to remain in the EU. I absolutely echo what she said and I want to convey that message in particular to my constituents in Cowdenbeath who are from other EU countries. The First Minister said:

"You remain welcome here; Scotland is your home and your contribution is valued".

15:46

**Alexander Stewart (Mid Scotland and Fife) (Con):** I am pleased to take part in the debate on the rights of EU citizens in Scotland. It is important to mention at this stage that the Scottish Conservatives absolutely acknowledge that EU citizens' contributions to Scotland are extremely beneficial and highly positive, socially, culturally and economically. EU citizens are most welcome and we wish them to remain. The UK Government has always recognised that as an important fact.

The referendum result in itself has no immediate effect on the nationality, residence or social security status of EU citizens in the UK. The status of EU citizens and their family members is protected under UK immigration law and that will not change. The UK Government has set up the EU settlement scheme, which is in line with the withdrawal agreement and is specifically designed for that purpose. To highlight that position, the home secretary said:

"After Brexit, the Government will take back control by introducing a new, fairer immigration system that prioritises skills and what people can contribute to the UK, rather than where they come from".—[*Official Report, House of Commons*, 04 September 2019; Vol 664, c11WS.]

That is vitally important.

The UK Government has already said that EU citizens' rights will be guaranteed—they are guaranteed. A free temporary leave to remain

scheme will run until that new system is put in place. That will ensure minimum disruption while the final arrangements are put in place to map out a new course for a much fairer system. The UK Government recognises the need to provide EU citizens, their employers and others with certainty about the arrangements that will be in place after Brexit.

As I have said in this chamber before, people voted to leave the EU for many different reasons. For some, it was a question of sovereignty; for others, it was about economic opportunities; and, yes, for some, it was about greater control over immigration. However, it was not about rejecting immigration altogether.

In anticipation of the changes, the UK Government has already commissioned the Migration Advisory Committee to assess other international countries' points-based methods in preparation for the UK to move towards a points-based immigration system, as the home secretary explained in September. That will ensure that Scotland, in the United Kingdom, continues to attract the best and the brightest talent from around the world. Indeed, it is an opportunity and, as we have said in the past, when it introduced its 2013 white paper, the SNP saw such an immigration system as a solution to what would happen here in Scotland.

As is all too often the case, the SNP has spent significant amounts of time and valuable energy blaming Westminster and criticising the UK Government, in this case for its immigration policy. At this stage, we should be looking to put grievance politics on the back burner.

To give a recent example, back in March, a letter was mailed out to EU citizens in Stirling, which is in my Mid Scotland and Fife region, from the office of Alyn Smith MEP. The letter, which was sent using taxpayers' money, caused confusion, fear and anxiety. It advised that the then UK Prime Minister Theresa May had spoken about EU citizens in a "shameful" manner, when she had consistently said that their rights were to be protected.

The Scottish Conservatives will look at the issues for individual sectors, and we have done so already. For example, on agriculture, we believe that the future of farming lies in increased productivity, but we recognise that, for soft fruit and vegetable farmers, the technology is not yet available for that to happen. That is why we campaigned for and delivered the pilot scheme to bring non-EU seasonal workers to the UK to deliver the work that our farmers need. We continue to listen to the farming sector, which is why we have quadrupled the quota.

**The Minister for Rural Affairs and the Natural Environment (Mairi Gougeon):** Will the member take an intervention?

**Alexander Stewart:** I wish to continue.

Through dialogue and discussion, we have ensured that the quota is quadrupled for the next year.

After pressure from the Scottish Conservatives—for which I pay tribute to Ruth Davidson and Liz Smith—the UK Government has announced the reintroduction of the two-year post-study work visa, which has been welcomed right across the sector. That was put in place as a result of our dialogue and discussion with our counterparts at Westminster.

We all need to engage in collective and co-operative dialogue about how we can deliver a better immigration policy that reflects Scotland's needs. The Scottish Conservatives have always done that when it comes to migration policy. We have not always immediately agreed with our Westminster colleagues' approach; we have made positive and proactive suggestions. That approach of having positive dialogue has always paid dividends. We will continue to ensure that we have such dialogue, because we value those individuals and we wish them to stay and to continue to make a valued contribution to our society.

I support the Conservative amendment.

15:52

**Stuart McMillan (Greenock and Inverclyde) (SNP):** I am both Scottish and European; I am also a nationalist and an internationalist. I fully support the motion in the name of the minister and I urge members to speak with one voice at decision time tonight, to tell all our EU friends who have chosen to live here that they are welcome. EU citizens are clearly concerned about their status and are worried about what will happen to them in a post-Brexit scenario. I want them to stay and to continue to contribute to our country's economy, culture and society.

I previously sent a letter to all the EU nationals in my Greenock and Inverclyde constituency to provide them with the information that was available at the time and to reaffirm that they are welcome here. Some of the responses that I received were full of gratitude. People wanted to thank me for that reaffirmation and to thank the First Minister for her continued support and her comments indicating that all EU nationals are welcome in Scotland.

No matter what politicians talk about or what figures that we bandy about in debates in the chamber and committees or outside the Parliament, we must remember that EU citizens

are individual people. The UK Government could readily fix their plight if it wanted to. It is not just about the adults; it is about the children as well. Those individuals go about their business and contribute to the working environment and to making Scotland better. I thank them for choosing Scotland as the country that they want to live in and for calling Scotland their home.

No member of the Parliament would be pleased if the state told them that their circumstances were going to change or if they believed that their home might no longer be theirs if they were not allowed to live here any more. As Alex Rowley touched on earlier, the SCVO provided a very helpful briefing to members. It highlighted the fact that people

“will now be required to apply for permission to stay in their own homes and communities.”

The UK Government’s record on dealing with immigrants has not always been one to be proud of, as the Windrush scandal has proved. If Windrush tells us—and EU citizens who live here—anything, it is that the UK Government cannot be trusted on immigration. We have all heard stories of individuals who went to visit family and friends in the Caribbean, only to be refused entry when they came back to the UK. We also know that some people died when they went away on such visits. Their homes and their lives were in the UK. I do not blame EU citizens for being scared and apprehensive; I would be if I were in their situation. The UK Government’s settled status scheme is frustrating enough, but EU nationals who have lived here for less than five years are able to apply for only pre-settled status, which provides even less security for applicants and their children. A guaranteed right to remain? It is just shocking.

The Tory MEP Daniel Hannan made a useful comment in that regard. He is quoted as saying:

“I have had constituency cases of EU nationals being denied settled status despite living here for years. This is a breach of the assurances I and other Leavers gave during the referendum.”

Scotland is in this mess because of the demonising of migrants and the surge to the right in UK politics. Unfortunately, the UK Independence Party, the British National Party, the English Defence League and others have helped to sway some people’s views by claiming that migrants are not welcome.

As we know, the Conservatives’ actions have also been well documented—for example, those in relation to the Windrush scandal and the “Go home” van. We also saw Labour’s infamous “Controls on immigration” mug. That is despite parties in this Parliament agreeing that immigration into Scotland is both positive and essential.

I will read part of a paragraph from the Equal Opportunities Committee’s report on migration and trafficking from 2010. Some of the members of that committee are still in Parliament today. Paragraph 689 states:

“The Committee believes that in this report it has been able to dispel many of the myths that have grown around migration. It found in evidence for example, that migrants’ demands on public services, including the health service are not as high as the general population’s; that migrants are housed largely in private rented accommodation rather than social housing; and that migrants do not depress local wages. More generally, there is also evidence available which states that migrants pay more in taxes than they receive in benefits and public services.”

As BMA Scotland’s briefing to members told us:

“The NHS has always relied on international doctors to provide a safe, high-quality and reliable level of service for patients and to fill gaps in the medical workforce.”

Scotland has an ageing population: the number of pensioners is projected to increase by a further 25 per cent over the next 25 years, with population growth over that period projected to be among the lowest across comparator European and UK countries. The UK Government’s half-baked and ill-conceived measures will not help in any way. They will make things harder for Scotland and for our constituents.

My message to every single EU citizen echoes the First Minister’s comments: you are welcome in Scotland, where you are needed. Thank you for choosing Scotland as your home. Please stay.

15:58

**Lewis Macdonald (North East Scotland) (Lab):** The debate is about citizens of other European countries who have chosen to migrate to and make their homes in this country. However, as the minister said, it is also about citizens of European Economic Area member states, such as Norway, who have not crossed the North Sea permanently but who are able to use their freedom of movement within the EEA to work here and go back to their home countries between trips or between contracts.

That is worth noting, from the point of view of my region in the north-east. Offshore oil and gas workers from Aberdeen are at least as likely to work in Norwegian waters as they are in the southern North Sea, off England or Holland, and Norwegians are just as likely to work here while still living in Norway.

There are other economic sectors in which the same is true. The loss of that freedom of access will be bad news for those workers and for what is surely the highly desirable objective of economic activity in the North Sea that straddles borders.

It is important to bear those workers in mind while we focus on European citizens who have made the huge commitment to leave their own country to come to live in ours. Those citizens are already feeling the effects of the Brexit vote, and they are the focus of Labour's amendment.

Labour's amendment highlights the recent report entitled "How Brexit Impacts EU Citizens' Mental Health And Wellbeing Research Findings" by researchers from Robert Gordon University with support from Feniks. The minister and I were fortunate enough to be at the launch of that report in June. Piotr Teodorowski from RGU, who presented at the launch, wrote about the report in *The Scotsman* at the time.

The report matters because it goes beyond the legal issues of rights and entitlements to look at what the uncertainty of Brexit actually means for the lives of the people who are most directly affected by it. The evidence came through focus group meetings that were carried out in Edinburgh and Aberdeen and which featured citizens of 13 countries who had been in this country since before the referendum in 2016. The study confirmed just how damaging Brexit has already been for many European citizens who have chosen to make their lives here.

The research highlighted three impacts on people's mental health and wellbeing.

First, there was the unravelling of people's future plans. One witness talked about putting marriage plans on hold because of citizenship uncertainties. Another witness was afraid to leave the UK in case it was not possible to get back in.

Secondly—and perhaps most important—there was the sense of rejection. People had been welcomed and made to feel welcome, but, suddenly, there was a public vote in which it was said that they were not welcome after all, and they, as active citizens and taxpayers—many were volunteers in their communities, too—were denied the right to participate in it.

**Stuart McMillan:** Does Lewis Macdonald agree that those comments echo the evidence that the Fife Migrants Forum gave to the Culture, Tourism, Europe and External Relations Committee when he was a member of that committee?

**Lewis Macdonald:** Indeed; I remember that evidence session well. Stuart McMillan is quite right. That was at an earlier stage, but that evidence nonetheless reflected how quickly the uncertainty impacted on people's lives and people's sense of what they were able to plan for and do.

Some of those who responded to the RGU study experienced direct discrimination as a result

of the vote. Others were nervous at being marked out as different and were unsure how much even we British citizens who were most sympathetic could understand how they felt.

Thirdly, there was a sense of loss through change. Some participants described that as being like mourning. First, there was denial; then there was sadness; finally, there was acceptance of their loss. One talked about taking a different way to work to avoid seeing the endless and depressing headlines about Brexit and immigration. Others found that the mental ill health that they already faced was made worse by depression about the referendum vote or anxiety about what might happen next.

Those are consequences of the vote to leave the EU. To some degree, they are unintended consequences. Many who voted to leave the EU did not think about the implications for EU citizens any more than they thought about the implications for Gibraltar or for peace in Ireland. However, for others—including some in the Conservative Party—immigration was at the centre of their campaign to leave, and the pain and loss of EU citizens here and of British citizens elsewhere in the European Union were a price worth paying.

The report is one of many reports to confirm just how deeply irresponsible the leave campaign really was. As we all know, what will ultimately happen with Brexit is still to be determined. Whatever the outcome, the underlying sense of rejection for many EU citizens in this country will not simply go away. Even if Brexit is not taken forward, work will still be needed to convince them that they really are welcome, not just by some of their neighbours but by the community and the country as a whole.

The motion that we are debating does not propose an approach in Scotland that is different from that in the rest of the United Kingdom. The minister has proposed that the next UK Government takes a different approach to protect EU citizens throughout the UK in the event that Brexit goes ahead, and that is absolutely right and welcome.

The minister's party and mine agree on the matters that we are debating today, just as we do on the wider impact of Brexit on people's human rights. However, we should not ignore the implications of the debate for other potential referendums, which may also pose hard choices, and where some of our fellow citizens may also feel that they have a great deal to lose.

The report, and many other studies of the impact of the Brexit referendum on European citizens, is clear: hostile intentions are not required for there to be very distressing impacts when it comes to erecting borders that cut through

people's lives. We should all be open to understanding what that might imply for decisions that we might take now and in the future.

16:05

**Joan McAlpine (South Scotland) (SNP):** The position that EU nationals find themselves in, in the UK Government's Brexit waiting room, is nothing short of scandalous. The abject failure of the UK Government to disseminate information about its EU settlement scheme has compounded the feelings of rejection and anxiety that have already been experienced by EU nationals in the UK, as outlined by Lewis Macdonald.

The scheme itself is fundamentally flawed. The five-year and pre-settled elements disrespect the dignity and rights of people who have contributed so much to our society. The scheme is not fair and it is not proportionate, and delay and uncertainty abound. None of it is human rights compliant; the settled status scheme should have been scrapped and replaced with the declarative scheme that is already an option under the withdrawal act, and as proposed by the Scottish Government.

The people who choose to come to Scotland from the European Union make an invaluable contribution: three quarters of them are employed; a greater percentage of EU nationals have degrees when compared with UK citizens; and more than 70 per cent own their own homes after living in Scotland for 10 years. With all age groups in Scotland predicted to decline in the next 25 years, the importance of new lifeblood cannot be overstated, as population growth is the main driver of economic growth.

All of Scotland's population increase in the next 10 years is projected to come from elsewhere—and 58 per cent from overseas. The rise in population, based on current net migration figures, will be from 5.4 million to 5.69 million by 2041, made up of younger people who migrate to Scotland from the EU, boosting the number of children and working-age people. Scots are right to be worried about anything that undermines population growth, and about an exodus from Scotland of EU nationals. The independent expert advisory group on migration and population said that the UK Government's immigration plans will mean a decline of as much as 50 per cent in the number of migrants in Scotland, but we know that that figure could be a lot higher.

Make no mistake: the loss of freedom of movement will be catastrophic for Scotland's economy. A slowdown in population growth will impact hugely on the working population in particular. Of Scotland's whole workforce, 5.2 per cent is made up of EU nationals: 10,000 people in the food and drink industry; 19,000 in the soft fruit

and vegetable industry; 4,000 in fishing; and 21,000 in tourism. In addition, EU nationals work in all our universities and research centres, and in our hotels, our restaurants and our manufacturing base. Of Scotland's business enterprises, 98 per cent are small businesses. The Federation of Small Businesses estimates that 26 per cent have at least one EU employee, and 41 per cent of all businesses—large and small—across Scotland employ at least one EU national.

In Scotland, there are around 1,200 EU doctors; they make up approximately 6 per cent of the NHS medical workforce. Here, the UK Government's utter failure to communicate its settled status scheme is evident. For example, 34 per cent of EEA doctors who work in Scotland are not aware of the scheme's existence, and 30 per cent are looking to move abroad. NHS staff and patients are having to cope with a vacancy rate of almost 9 per cent. We cannot—and the UK Government must not—expect NHS staff and patients to suffer the harmful and unconscionable consequences that Brexit and the loss of freedom of movement will bring.

The impact of EU migration on Scotland's economy is all good. It means increased GDP and Government revenue, and higher exports, consumption and investment. That is calculated on an inflow of around 7,800 additional employed EU nationals each year, based on trends between 2007 and 2016.

Two areas that I am privileged to represent, Scottish Borders and Dumfries and Galloway, have experienced a slow and steady overall increase in net in-migration between 2012 and 2018, as official statistics show. Rural areas such as those rely heavily on EU migrants for population growth and economic growth.

We know—other members have made the point well—that Scotland will be disproportionately affected by any slowdown in immigration. That means that our economic growth is in severe jeopardy.

We want and need to increase our labour supply to expand the production capacity of the Scottish economy. When our economy as a whole is more competitive, all Scotland's citizens benefit. That is the future that the UK Government seeks to deny Scotland. It is not acceptable, and it is time that our success is no longer predicated on the woeful decisions in the Westminster farce that is Brexit.

In contrast to the lamentable efforts of the UK Government, the Scottish Government has communicated regularly and purposefully with EU nationals living here about the ramifications of Brexit. We want people to stay, and to build and share in Scotland's success. The settled status scheme does not help Scotland build for the future

that we want. The scheme is a mess and I support the Scottish Government's call for a declarative scheme that is fair and respectful. Such a scheme should be given the force of law as soon as possible.

16:11

**Jamie Greene (West Scotland) (Con):** I have always welcomed—inside and outside the chamber—the contribution of EU and non-EU migrants to Scotland, and I want to see us continue to welcome them to our shores, even after we leave the European Union. We cannot underestimate the important part that they play in our society and economy. That contribution is enormous, especially in our rural economy. Up to 10,000 people are employed in the food and drink sector, 5,000 in our fishing industry and 21,000 in Scotland's vital tourism industry. In our universities, one fifth of academic researchers are from the continent. As of August this year, EU citizens make up about 4 per cent of our total population.

Although the debate over their contribution is welcome, the problem is that the tone of the debate is surely not. I add that the contribution of migrants is not just economic; it is also about diversifying and enriching our country and our society—as many members have rightly said. You will hear no notion that suggests otherwise from me, or from the Conservative group. Any suggestion otherwise is disappointing, although not surprising.

There have been nearly 93,000 applications for EU settled status in Scotland, but as some members have mentioned, there are still deficiencies in take-up. There is a duty on all of us—irrespective of our views on Brexit or other matters—to ensure that our constituents know about such schemes. That raises wider questions as to why—given that we have talked of Brexit, day in and day out, every day for the past three years—so many have not come forward to apply.

I listened with interest to the minister's comments on that. To be fair to him, his actions are welcome interventions. If the premise is to increase awareness in certain communities, then it is right to take those actions.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** Will the member take an intervention?

**Jamie Greene:** I would like to make my point.

The settlement scheme had flaws when it was introduced, not the least of which was the initial suggestion that there would be a fee. I think that the UK Government listened and did the right thing on that. There remains anecdotal evidence that

the scheme is not working perfectly for everyone—we have had briefings from the SCVO and others to that effect. I listen to people and to those briefings. They talk about delays in process, the ability to appeal and technical issues with the process itself, so the Home Office ought to reflect on that important feedback.

However, I still maintain that there will still need to be, as a result of the UK's decision to leave the EU, and if it transpires that we leave the market arrangements that currently permit EU-wide free movement of people—whatever one's views on that—a physical mechanism for ascertaining who has the right to reside and work in this country. No country in the world with high levels of immigration is devoid of such a mechanism.

The people with whom the debate is concerned boil down to three different groups. The first group is people who are currently in this country, who have come from the EU and seek to identify themselves as such. The second is people from the EU who wish to enter the UK after Brexit. The third is people from non-EU countries who wish to come to live and work here after Brexit. They are distinct groups and there are distinct ideas about how we should deal with each of them.

However, some people appear to be apathetic about the idea that there should be a process at all. It does not seem odd to respect the rules of entry and residence that apply to us when we go to other countries, so why does it seem odd to some people that we should have our own reciprocal arrangements in this country?

**James Dornan (Glasgow Cathcart) (SNP):** Why does Jamie Greene think that we should have faith in any system that the UK Government comes up with? Only today, Hubert Howard, a Windrush immigrant who entered this country when he was three years old, died—just three weeks after getting his citizenship. Why should we trust the system that the Conservatives put in place when that system was obviously such a dreadful failure?

**Jamie Greene:** I do not disagree that there are huge lessons to be learned from the Windrush immigration policy. However, the Government has been clear that people from the EU who live in this country are welcome to stay and that, after we leave the EU, there will be a fair process of immigration. We need to have a sensible discussion about that. I appreciate James Dornan's views on the UK Government at Westminster—he is entitled to them. However, what I am talking about is a fair and simple process that people need to go through.

There is a skills shortage in the UK and, indeed, in Scotland, so it is right that we have a debate about bringing people in. However, I must say that

we should also be having a conversation about attracting talent from outside the EU and from the other nations of the UK. Future immigration policy should be about making everyone feel equally welcome in Scotland.

The motion in the minister's name is somewhat odd in that it asks the chamber to agree that EU citizens' rights should be protected in primary legislation. I do not disagree with that, but the agreement that the UK Government reached was called the withdrawal agreement, and it would have done just that. Indeed, the whole point of having a transition period in the first place was to offer continuity to give people time to prepare. It is regrettable that so many MPs voted against that transition and against the guarantee of enshrining those measures in law—including all SNP MPs, on four occasions. Therein lies the hypocrisy of the Scottish Government's position on the matter: the SNP calls for action in this chamber but votes against it in another.

So, what next? Whatever withdrawal agreement is presented to the UK Parliament, it is out of our hands. However, if and when such a deal is presented—a deal that enshrines the rights of EU citizens—it should be supported. Actions speak louder than words. The question is, when it comes to securing EU citizens' rights, will the SNP practise what it preaches? Only time will tell.

16:18

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** It is an honour to speak today to represent directly the views, wishes and concerns of EU citizens in my constituency. Since the Brexit vote in June 2016, the SNP Government has been unwavering in its commitment to EU citizens, who have honoured this country by choosing to live, work and raise families here. The message to them is clear and simple: you are welcome and we want you to stay.

As others have said, a few weeks ago, on the day on which we were supposed to leave the EU, the First Minister wrote her third open letter to all EU citizens in Scotland. It acknowledged the benefits and contributions of EU citizens to Scotland and finished with this assertion:

“You will always be welcome here.”

Although Brexit has caused anxiety among EU citizens living in the UK, studies have shown that EU citizens in Scotland feel more welcome than EU citizens in England feel. That is a sad indictment of the UK Government, and it is symptomatic of how it has handled the whole Brexit shambles.

We know that EU citizens contribute socially, culturally and economically to Scotland's rich

diversity—on that point, I agree with Jamie Greene. However, the uncertainty of the past two and half years has put that diversity at risk.

The UK Government has given EU citizens until mid-2021 to apply for the EU settlement scheme, but in the event of a no-deal Brexit, the application must be completed before the end of next year. The joint briefing that we received from the Scottish Council for Voluntary Organisations and the Human Rights Consortium Scotland pointed to the huge number of flaws in the current scheme's application system, about which other members have spoken. Like, I am sure, every other constituency office, mine has heard of several instances in which a simple mistake or a wrongly ticked box has created immense delays and stress in dealing with the Home Office.

We are dealing with a very time-sensitive issue. I agree with the Government's motion, which says that we should adopt a declarative system instead of the current application system. Such a system would be quicker, fairer and less likely to cause stress to EU citizens in all our constituencies.

I will talk about the Tory contributions to the debate. Donald Cameron and his colleagues have made their arguments, and almost sound as though they believe them, although I do not know who they can possibly be talking to. They are certainly not talking to the EU citizens who come to see me and are worried about their future, and who are being made to jump through hoops.

The Conservatives talk about the number of applications and say that we should all encourage our constituents to go through the application process, but not one of them mentioned that the application process often involves finding original flight details and providing job details and information on bank accounts and GP appointments. One constituent told me that they needed to provide every single prescription they had had. Sometimes I wonder how the Conservatives can possibly believe what they say. They need to ask themselves why they find sticking up for the Prime Minister and his policies more important than sticking up for their constituents.

I assure members that a lot of stress is being caused. Last December, I held a packed surgery for EU citizens in my constituency. I am sure that many other members have done the same. Many EU citizens were concerned about the homes that they had bought, the rights of their children who were born here, where they stood in respect of permanent jobs and pensions, access to healthcare and many other things. Those citizens are new Scots, and they are our families, friends and neighbours. The current system and process are making them feel like second-class citizens. It is absolutely shameful and horrendous, and the

shame will likely be recorded in UK and British history as an epic national scandal.

Other members have talked about the benefits that EU citizens bring to Scotland, so I will not go over all those points again. I agree with Jamie Greene that EU citizens bring so many benefits: they bring diversity, they are our friends and families and, of course, they bring economic benefits. One in 20 workers in Scotland is an EU citizen. If those citizens were to leave, the food and drink, tourism, manufacturing and fishing industries would be disproportionately affected. We need EU citizens in this country.

At its heart, the issue is quite simple. It is not really about policies, frameworks, quotas and statistics, helpful though they all are. It is about basic humanity, love, friendship and essential human rights. We either stand for those things or we do not. Politicians in Parliament are elected by the people of Scotland, so shame on any of us who are not willing to stand up for our friends and neighbours—our constituents.

The UK Government clearly does not care about EU citizens. That is just one more reason why many more people are coming to the realisation that, for our future, it is right for us to be part of the European Union as a normal nation, and that that is the most sensible path for us to take.

16:23

**George Adam (Paisley) (SNP):** I am delighted to speak in today's debate. I begin by reiterating what many of my colleagues and friends have said before me: we in Scotland did not vote to leave the European Union, and we certainly do not wish to see our European friends and neighbours leave our shores.

It is undisputed that EU migrants have a positive effect on the Scottish economy. They help to drive our population growth and ensure that we have workers to meet the needs of businesses and the public sector. From the get-go, the Scottish Government has been committed to protecting the rights of EU citizens who live and work in our country.

I often think to myself about how those families must feel with all the current uncertainty that is coming from Westminster, and how I would feel if I were in a similar situation, with the uncertainty and fear of what might come. They have chosen Scotland as their home, and we want them to remain here. They need our support during these uncertain times.

That brings me to today's contributions. Donald Cameron said that he agreed with most of what the minister said in his opening remarks. Donald Cameron might be a jolly nice bloke, and he might

be easy to get on with: I do not know him, myself. However, at the end the day, his speech and its tone were somewhat disappointing. He used language that I would not have used in dealing with, and talking about, the families and individuals who are worrying about what is happening.

It strikes me, as always, that Conservative members must stop being the apologists that they have consistently been for the circus that is the UK Government. The UK Government is being laughed at worldwide because of the Brexit situation. The Conservatives have no idea what EU families are going through, and they still defend the morally bankrupt UK Government. Tory after Tory has said how important EU citizens are to Scotland: I agree with them and ask only that they stop bumping their gums in here and instead speak to the ringmaster general, Boris Johnson, to tell him exactly what they think.

The difference between us and them in the whole thing over the past three years has been that since the referendum, I and my SNP colleagues have waxed lyrical about the disgrace that is the Brexit process. It does not look as though a light will appear at the end of the tunnel any time soon: I sometimes wonder whether there are any lights left on at Westminster.

**Adam Tomkins:** I am sorry to interrupt George Adam's fine electoral rhetorical flourishes, but I will quote to him what the current Home Secretary in Boris Johnson's Government has said. I and invite him to explain to Parliament where and how he disagrees. She has said that we want to introduce

"a new, fairer immigration system that prioritises skills and what people can contribute to the UK, rather than where they come from."—[*Official Report, House of Commons*, 4 September 2019; Vol 664, c 10WS.]

That is the Government's immigration policy. Does George Adam agree with it or not?

**George Adam:** One thing that I have learned is that Boris Johnson is very good at making speeches and saying things out loud, but what he actually delivers is never what he has said. It is a matter of trust.

During the recent parliamentary recess, I became keenly aware that many of my constituents were growing increasingly concerned about the potential ramifications that leaving the EU could bring, and how it will affect their communities and families. Not only are they facing possible food shortages, increased electricity and gas prices and more expensive medication, but dragging Scotland out of the EU against our will opens the door for our communities to lose those valued and contributing members.

My wife has three long-term conditions, so the looming Brexit dark cloud appears darker still to me as most of Stacey's medication comes from

mainland Europe. I have had reassurance from the Scottish Government that it is working to sort the situation out, but there are people in the UK Government to worry about, which does not fill me with confidence. Many families who are dealing with long-term conditions have that fear, and I say frankly that they have all lost faith in Westminster.

The recent Migration Advisory Committee report, which was commissioned by the UK Government, dispels many myths about the economic impact of EU migrants under freedom of movement. I will be clear: EU citizens are not a drain on public services or on public finances. The truth is the contrary. It is clear from the report that, overall, immigration has made the UK a more productive economy and a more prosperous nation.

Approximately 5.2 per cent of Scotland's total workforce is made up of EU migrants. The rural economy in particular relies on people from all over the EU. I will name but a few examples. Up to 10,000 EU citizens are employed in the food and drink industry in Scotland. We know how important that industry is to us. About 10,000 non-UK seasonal migrant workers are employed in the soft fruit and vegetables sector, and more than 4,500 EU citizens work in Scotland's fishing industry. Others work in food standards. In all seriousness, EU nationals are vital to our economy and our way of life, here in Scotland. We are all proud of our tourism industry, and an estimated 21,000 EU citizens are employed in that sector.

We live in uncertain times, but I want EU nationals in Scotland to be under no illusions about the fact that we value every one of them. I hope that EU citizens will call our country their home for years to come. For me, it is quite simple: many EU citizens live in my constituency and because they choose Paisley as their home, they are as much Paisley buddies as I am.

16:30

**Alex Rowley:** We have certainly had an interesting debate, but it is a pity that it takes place against the backdrop of the settled status scheme. It is important that we discuss immigration and its importance to Scotland. I note that Professor Tomkins intervened on George Adam to talk about a UK minister referring to a "fairer immigration system", but the reality is that much of the Brexit campaign was dominated by the issue of ending free movement as it was perceived to be bad for the country. As politicians, we need to be able to take that view on board. I think that most of us in the chamber would acknowledge that at some point when we have been on people's doorsteps, the issue of immigration and the perception that it is a bad thing has come up. However, we often fail to take that argument on board and to

acknowledge that it is easy to blame immigrants for a shortage of housing and a failure to get access to the NHS—that is often what happens. As politicians, we need to have those discussions and point out the positive aspects of immigration that have been highlighted in this debate.

**Stuart McMillan:** I suggest to all colleagues in the chamber that the report that was published by the Equal Opportunities Committee in 2010, which I spoke about earlier in the debate, is a good starter for getting those arguments over to the wider population.

**Alex Rowley:** I am grateful for that suggestion.

I believe that if politicians at every level, but particularly those at UK level, had not ducked those issues that I outlined, we might not have had to deal with the Brexit issue. That is why it is important to discuss those issues.

A member mentioned earlier in the debate the UK Parliament's Scottish Affairs Committee, which reminded me that when it was taking evidence for a report, somebody from an employment agency in eastern Europe said that there were two things that many people coming to the UK did not want: to pick fruit or to go to Scotland. That is therefore an issue for us. I acknowledge, as I think that the minister would, that there are specific challenges and issues for Scotland when it comes to encouraging people to come and make their home here. That is why the Labour Party in Scotland is open to having further discussions with all parties, because we must recognise that, going forward, we need more people to come and settle here.

As many people have said, though, we are in the crazy position of people being discouraged from coming and from staying here. For example, the BMA highlighted that a lot of medical professionals might not want to continue to stay here, which would be a disaster for us. Lewis Macdonald highlighted the impact that such uncertainty has on people's lives, including its impact on mental health, with many people being depressed. I understand that, because most people who I speak to are depressed about Brexit and want to see us get a solution for it. However, that solution cannot be a worse deal than Mrs May's deal, which I believe is what Boris Johnson offers us. The best way forward is to go back to the people and ask them whether that is really what they want at the end of the day.

Joan McAlpine and many others say that the scheme is fundamentally flawed, but it is difficult for me to see where Donald Cameron and the other Tory members are coming from. I am not asking them to listen to Joan McAlpine or me, or to anybody else for that matter; they should look at all the briefings that have come in from people on the front line in our NHS and the third sector. All

those briefings are saying that the scheme as it stands is fundamentally flawed and that we need to take action—hence my earlier question to the minister about putting more resources in. I welcome the resources that have been put in, but we need more.

I cannot, for the life of me, understand how Tory members can come here today and say, as Alexander Stewart put it, that this is grievance politics on the back benches. It is not grievance politics; it is listening to all those organisations out there and seeing what the real threat is to our NHS and to so many other areas. If many of those who have chosen to stay in Scotland end up choosing to leave, we will be in deep trouble. That is not grievance politics; those are the facts. As Professor Tomkins often says, we have to follow the evidence, and the evidence is that we have a real problem with the scheme. As a result, we need to think again. I urge the Tories to join every other party in here, follow the evidence and let us get this scheme changed, so that people do not have to go through what they are going through right now.

16:36

**Adam Tomkins (Glasgow) (Con):** I agree with a lot in that speech by Alex Rowley, although not everything. It was a very thoughtful contribution. Conservative members and, I think, everybody across the entire chamber values the contribution made by EU citizens to all aspects of life in Scotland. We agree strongly with the opening words of the Government's motion in Ben Macpherson's name. He is right that this is an important issue and it is important that everybody who speaks about it in this Parliament puts on record the extent to which we all welcome citizens to Scotland and to the rest of the UK from the EU and, indeed, from elsewhere in the world. We all recognise

"the significant contributions that such EU citizens make to Scotland and the rest of the UK socially, culturally and economically".

Those are the opening words of the Government's motion and we agree with them.

Alex Rowley is absolutely right that we need to have an honest debate about immigration, and that honesty requires us to say those welcoming words, which are not boilerplate but genuinely meant. However, we also need to be honest about the drawbacks of uncontrolled immigration. Immigration is not an unalloyed good; it comes with difficulties as well as benefits and we need to be honest and candid both about the positives of immigration and about where we have got immigration wrong in the past. We all know that the Scottish economy depends on EU migrant labour, particularly in two sectors of the economy.

In the rural economy, we know that up to 10,000 European citizens are employed in food and drink in Scotland and up to 10,000 non-UK seasonal migrant workers are employed in the soft fruit and vegetable sector in Scotland. We know that 4,500 EU citizens work in the Scottish fishing industry. We also know that in the sector of the economy I know best, the higher education market—I declare an interest as an employee of the University of Glasgow—there is a very significant and very welcome element of European labour. "Labour" does not sound quite the right word for what academics do, but they are a very important part of the employment market. Some 14 per cent of researchers in Scotland are from non-EU foreign countries and 67 per cent are from the UK. Some 19 per cent are from the EU.

Those are statistics that we are familiar with, and this is the importance of them: Scotland needs migrant labour, both from the European Union and beyond. Scottish Conservatives have consistently campaigned for a UK-wide immigration policy that recognises, supports and accommodates that need.

That is why Scottish Conservatives, led by Kirstene Hair, have campaigned for an increase in the number of places in the seasonal agricultural workers scheme, as Donald Cameron said, and that increase has now been delivered by the Conservative Government.

That is why Scottish Conservatives, led by my friend and colleague Liz Smith, have campaigned for the post-study work visa to be reintroduced, and that policy has now been adopted by the current Boris Johnson Government.

**Liam McArthur:** Will the member take an intervention?

**Adam Tomkins:** I will happily give way in two minutes.

That is why Scottish Conservatives have said that the £30,000 salary threshold recommended by the Migration Advisory Committee will, frankly, not work for Scotland. That is why Scottish Conservatives have welcomed the Prime Minister's most recent announcement of a new NHS visa route that will benefit healthcare professionals. We recognise the need in the Scottish economy for migrant labour: we welcome it, we support it and our policies underscore that.

**Liam McArthur:** I have a great deal of sympathy for much of what Adam Tomkins has just said, but what he has described is very transactional—it talks to the economic impact that EU nationals and other immigrants make on our communities. However, they make a far more significant contribution across a range of areas, such as their creative contribution, which cannot be measured by the transactional mechanisms

that Adam Tomkins has outlined, which the UK Government seems to be pushing forward.

**Adam Tomkins:** I agree with Liam McArthur's comments unreservedly. At the moment, I am just talking about the economic benefits because they have been the focus of so much of the debate, but I have no argument whatsoever with Liam McArthur about the social and cultural benefits that enrich our communities and our society in all the ways that he has described. He is absolutely right, and I do not think that anybody in the chamber disagrees with any of those points.

I have talked about where we agree with Ben Macpherson's motion but, in our view, where the Government motion goes wrong is when it talks about "insecurity and anxiety". The opening words of Ben Macpherson's opening speech in today's debate were about uncertainty. I very much recognise that there is insecurity, anxiety and uncertainty, and I very much regret that, but we have to be absolutely clear why that is the case. They are caused by those, including the SNP, who have consistently refused to back our carefully negotiated withdrawal agreement. The withdrawal agreement guarantees the rights of EU nationals who are lawfully resident in the United Kingdom. That is what the SNP called for, and yet the SNP has voted against it again and again. I am afraid that that is what has caused the very uncertainty that the SNP now complains about.

The Government motion also insists that the existing rights of EU nationals who are lawfully resident in the United Kingdom should be maintained and that people should not have to apply for rights that they currently have. I have to say to Ben Macpherson that that argument is misconceived for reasons that were touched on in Alex Rowley's remarks a few moments ago. Free movement will end when we leave the European Union, or at least it will end at the end of the transition period. Free movement is a nice phrase, but what does it mean? It means uncontrolled immigration—that is what it has come to mean. I was interested in what Annabelle Ewing, who was a lawyer in Brussels for many years before she turned to elected politics, had to say about that. She said that the European Union was created in order to prosecute peace in Europe "through trade" and she is right. When free movement was written into the treaties in the early days of the European Union, it was not about free movement or about citizens and citizenship; it was about free movement of workers. It was an economic right and it was "transactional", to use the word that Liam McArthur used earlier.

**James Dornan:** Will the member take an intervention?

**Adam Tomkins:** Not at the moment.

Free movement has become so much more than that under the uncontrolled EU law. Free movement means uncontrolled immigration and under EU law, as Annabelle Ewing surely knows, it is increasingly uncontrolled through the jurisprudence of the European Court of Justice.

I will be absolutely candid about this: I want controlled immigration and I do not want uncontrolled immigration. However, I want the controls to be fair, balanced and, crucially, based on need. I do not particularly care—

**Annabelle Ewing:** Will the member take an intervention?

**Adam Tomkins:** I will shortly, if I have time.

I do not particularly care where people come from. I care about what people can contribute to British and Scottish society, culture and the economy. I want a points-based immigration system that recognises all that in law, and that is exactly what the SNP said that it wants for an independent Scotland. It wants a points-based immigration system, Boris Johnson's Government is going to deliver a points-based immigration system, and I think that we should all come together to agree on and support that.

**Annabelle Ewing:** Of course, the EU was founded on the four fundamental freedoms of workers, goods, capital and services. It is important to bear that in mind.

However, I want to go back to the fundamental question. Why should EU citizens in Scotland have to apply for rights that they have already acquired? That is the key issue. Why does Adam Tomkins not support a declaratory system?

**Adam Tomkins:** The answer is that decisions that are taken in referendums change things. Annabelle Ewing and I were on the same side in the EU referendum campaign. We both campaigned for a remain vote and we lost, unfortunately. The fact is that referendums decide things, and one of the consequences of the decision that was taken by the British people in that open and democratic referendum was that we were going to have to change aspects of our law and we were going to bring back control of immigration.

I do not know how long I have left but I will close by talking about our amendment to the Government's motion, and focus on its final words. It says that we want an immigration system that ensures that the UK is a place that

"attracts the best and brightest talents from around the world."

Donald Cameron mentioned the RSE, and I should say that I am a fellow of the RSE, although

I had nothing to do with the preparation of its work on migration policy. It says:

“The UK should promote a narrative of being ‘open for business’ and seen as a welcoming destination for immigrants. It must be clear that, in particular, skilled and talented migrants are both required and valued.”

The RSE has much more to say but, in the interests of time, I will not read it all out.

I agree with much of what the RSE has said and I think that Ben Macpherson does too. I know Ben Macpherson. I know that he is capable of reaching out across the aisle and working with political opponents. I welcome that, and I would like to see more of it on this and other subjects. I know that there is an election on and that we are all politicians, but let us have less of the point scoring and grandstanding. Let us have a bit more cross-party working to ensure that we have a post-Brexit immigration system that works for all sectors of the Scottish economy.

16:47

**Ben Macpherson:** I thank all members for their contributions to today’s important debate. As Alex Rowley said during his summing up, in the current context, and while considering Scotland’s story and Scotland’s future, it is important to talk about immigration, the value of the people who come here, and the contributions that they make and have made to our economy, public services, shared culture, and the welfare and enrichment of our communities.

It is also important to talk about how we continue to attract people from within the UK. We have net migration into Scotland from the rest of the UK and the expert advisory group will look at what more can be done with that.

We also need to continue to consider overall immigration policy and Scotland’s needs, aspirations and values, how we can continue to attract people in any post-Brexit scenario, and how we continue to make the case for tailored solutions for Scotland.

Although it is good for us to discuss the wider issues, and I welcome that discussion, today’s debate focuses on the EU citizens and EEA citizens who are here now and have, in many cases, been here for a long time. A number of members mentioned how the number equates to 4 per cent of the population, or 221,000 people. However, we need to think in bigger and much more nuanced ways than just numbers. The number of people in the different industries was touched on by a number of members, and it is hugely important to understand and value the contribution that has been made to different sectors of Scotland’s economy.

For me, the most powerful contributions that were made today came from Liam McArthur and Fulton MacGregor, who talked about emotional conversations that they have had with constituents, and the issues that those constituents have faced when dealing with the EU settlement scheme.

The Conservatives have said that they value the contributions of EU citizens, but they need to consider what has been said by other members. We have heard stories and received evidence from EU citizens throughout the country about their sense of rejection as a result of having to apply to maintain their rights. Lewis Macdonald referred, importantly, to the mental health consequences of that, and Joan McAlpine and others described the sense of feeling degraded.

It is a poor argument to assert that the application-based process is welcome or appropriate, so I would urge members of the Scottish Conservatives to hold events with EU citizens, like many of us have done, and listen to their experiences of that process. If any Conservative member wants to organise such an event, I would be happy to come along.

It is also a poor argument to equate the withdrawal agreement with citizens’ rights. Since the vote in June 2016, the Conservative Party could at any time have introduced primary legislation that would have enshrined the rights of EU citizens in law. Many EU citizens have argued that to bind their rights with the withdrawal agreement and the Brexit process was to use them as a pawn in negotiations. That is deeply unfortunate. It is wrong to bring the EU citizens’ rights argument into questions about the withdrawal agreement.

Like the Scottish Government, the Conservative MP Alberto Costa has argued for the enshrinement of EU citizens’ rights in law. I would encourage the Scottish Conservatives to listen to his arguments, which are incredibly strong.

**Adam Tomkins:** The minister has been very generous with his time. Alberto Costa—hopefully soon to be an MP again—is a good friend of mine and of my parents. Is not the argument against that position very simple, which is that we need to worry about not only the rights of EU nationals lawfully resident in the United Kingdom but the rights of UK nationals living elsewhere in the EU? There needs to be reciprocity in the arrangements, but for all the will in the world, and no matter how we define parliamentary sovereignty, the UK Parliament cannot legislate for that.

**Ben Macpherson:** The rights of British citizens elsewhere in the EU are incredibly important, which is why I met representatives of British in Europe to hear their perspective. However, very

early on in the Brexit process, the UK Government drew a red line when it came to that issue, which was an unforgivable mistake.

The Conservatives' argument for an application-based system on the basis of needing a physical mechanism, as Jamie Greene put it, does not stand up either. A declarative system that has a registration process is still a mechanism; it is just very different from a constitutive applications process, which is what the EU settlement scheme is. On the one hand, we declare people's rights and then there is a registration process to ensure that the administration of the system works effectively. On the other hand, the constitutive application-based system that we have at the moment asks people to apply for rights that they already have, which, as many members have said, is insulting and degrading. Further, as Liam McArthur said eloquently but also worryingly, the threat of deportation hangs over citizens' heads.

A number of members picked up on the fact that the motion touches on the issue of pre-settled status. I hope that, as a Parliament, we will be able to unite to argue that the five years' residency requirement for settled status is nonsensical. It is part of the very bureaucratic process that Fulton MacGregor talked about, for which a great deal of evidence is required. There is no need for such a requirement. Indeed, it is completely unjustified to argue that people should have to have lived here for five years to demonstrate their contribution to our society. Pre-settled status is confusing and has the potential to create a sense of there being two different classes of EU citizens. We could well do without it. If we are to have a settled status scheme, let us make sure that everyone gets full settled status and all the rights that come with that.

I was grateful that Annabelle Ewing picked up on the point about physical proof. Not every EU citizen will want to have physical proof of settled status, but those who do should have the right to have that reassurance of their status, as they see it. If citizens from outwith the EU and the EEA, not to mention British citizens, can have physical proof, why should EU citizens be any different, particularly when, worryingly, as SCVO and others have highlighted to me, EU citizens are already being asked to present proof of their rights to different agencies and organisations? That shows that the electronic approach that the UK Government has taken is not working.

In their amendment, the Conservatives made a number of points about what the UK Government is doing, and I want to briefly pick up on some of those. Several Conservative members mentioned the agricultural workers scheme. The Scottish Government welcomes that scheme, but it is simply inadequate, even taking into account the scheme's extension from 2,500 to 10,000 workers,

given that the economic productivity of the horticultural sector in the UK currently relies on the utilisation of 60,000 migrant workers. I do not see how, logically, the removal of freedom of movement and the reduced scale of the agricultural workers scheme will support agricultural businesses here in Scotland and across the UK.

Although the UK Government's proposed NHS visa has some advantages in that it will involve, the UK Government says, a fast-tracked application process, the fee for which will be halved, it will be a poor substitute for freedom of movement, because it will involve every employer paying £1,000 to facilitate such an individual to come here and it will be a much more bureaucratic process.

The Conservative amendment, which we will vote against, uses the phrase "the best and brightest", which the UK Government is using on a regular basis. We in Scotland want to attract people who are highly qualified. That is why we have continually argued for the reintroduction of the post-study work visa. After seven years of campaigning, we are glad to see that happen, although we would like it to be implemented sooner. The phrase "the best and brightest" is unfortunate, because it creates a hierarchy of skills and does not capture the wider enrichment that immigration brings to Scotland, an example of which is the 16,000 workers who work in our health and social care system. It creates the perception that only highly qualified, highly paid individuals are welcome in the UK, and it fails to capture the wider importance of immigration to Scotland and, indeed, the UK as a whole.

The Conservatives also talked about the SNP's policy in the white paper of 2013. It is true that we argued for a points-based system for people from outwith the EEA, but it was the clear policy for Scotland to stay in the EU. Unfortunately, as part of the UK, we face having our EU membership removed. However, I do not want to get into the constitutional question. I want to focus my remarks on EU citizens' rights, because that is what is most important today.

In summing up, I would like to emphasise that the stay in Scotland campaign is up and running. I encourage members to use its materials and to encourage businesses, third sector organisations and other entities in their constituencies and regions to do all that they can to support and encourage EU citizens to stay in Scotland.

I also encourage members to support the Labour amendment in the name of Claire Baker and the Government motion, as amended, calling on the UK Government to move from the illogical and often harmful settled status scheme, which requires applications, to a declarative approach in

which EU citizens, who contribute so much to our society and have done so much for the benefit of Scotland, have their rights secured in law and do not have to go through a humiliating application process. If we are going to keep the EU settlement scheme, I urge the UK Government to at least get rid of pre-settled status, because it is unnecessary, and to give individuals the option of physical proof so that they can demonstrate their rights in that way if that is what they choose to do.

EU citizens have made a huge contribution to our country and they continue to do so. I ask Parliament to back the motion, as amended by the Labour amendment.

## Decision Time

17:01

**The Presiding Officer (Ken Macintosh):** There are three questions to be put this evening. I remind members that if the amendment in the name of Donald Cameron is agreed to, the amendment in the name of Claire Baker will fall.

The first question is, that amendment S5M-19809.2, in the name of Donald Cameron, which seeks to amend motion S5M-19809, in the name of Ben Macpherson, on protecting the rights of European Union citizens in Scotland, be agreed to. Are we agreed?

**Members:** No.

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

### For

Ballantyne, Michelle (South Scotland) (Con)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Mason, Tom (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Finnie, John (Highlands and Islands) (Green)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)

Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 22, Against 71, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The next question is, that amendment S5M-19809.3, in the name of Claire Baker, which seeks to amend motion S5M-19809, in the name of Ben Macpherson, be agreed to. Are we agreed?

**Members:** No.

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

**For**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Baker, Claire (Mid Scotland and Fife) (Lab)

Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Finnie, John (Highlands and Islands) (Green)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**Against**

Ballantyne, Michelle (South Scotland) (Con)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Mason, Tom (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 71, Against 22, Abstentions 0.

*Amendment agreed to.*

**The Presiding Officer:** The final question is, that motion S5M-19809, in the name of Ben Macpherson, as amended, be agreed to. Are we agreed?

**Members:** No.

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

#### For

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Finnie, John (Highlands and Islands) (Green)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)

Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

#### Against

Ballantyne, Michelle (South Scotland) (Con)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Mason, Tom (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 71, Against 22, Abstentions 0.

*Motion, as amended, agreed to.*

That the Parliament welcomes citizens from elsewhere in the EU, the EEA and Switzerland who have used their right to freedom of movement to come to Scotland, and

recognises the significant contributions that such EU citizens make to Scotland and the rest of the UK socially, culturally and economically; acknowledges that EU citizens enrich Scotland and are an integral part of communities across the country; notes that the approach of the UK Government towards the rights of EU citizens since 24 June 2016 has created long-running insecurity and anxiety for millions; emphasises that EU citizens maintain their rights under freedom of movement until if and when the UK exits the EU; believes that EU citizens should not have to apply to retain rights they already have if the UK exits the EU and freedom of movement ends; notes that the establishment of a declarative system and the removal of the requirement to apply to the UK Government's EU Settlement Scheme would go some way to alleviating the current insecurity many people are experiencing; believes that the rights of EU citizens residing in the UK at the point of EU exit, or the end of the transition period in the case of an agreement, must be enshrined in primary legislation; notes the recent report by Robert Gordon University and Feniks, *How Brexit Impacts EU Citizens' Mental Health and Wellbeing Research Findings*, and its findings that EU citizens in Scotland have experienced anxiety, and experience feelings of being unwelcome and rejected, with some reporting experiences of discrimination related to Brexit, and proposes that, if a declarative system is not established in law, the UK Government should immediately disapply its requirement that EU citizens accrue five years' residency to obtain full settled status, therefore removing the less secure pre-settled status, and considers that in all cases EU citizens must be given the option of receiving physical proof of status.

## Intimidation in Public Life

**The Deputy Presiding Officer (Christine Grahame):** The next item of business is a members' business debate on motion S5M-19251, in the name of Rachael Hamilton, on tackling intimidation in public life. The debate will be concluded without any question being put.

### *Motion debated,*

That the Parliament welcomes the announcement from the Committee on Standards in Public Life and the Jo Cox Foundation that they will work together on a Joint Standard of Conduct that will set out the minimum standards of behaviour expected from all political party members in order to reduce intimidation and abuse in public life and raise public awareness about its impact, including in the Scottish Borders; understands that a survey by BBC 5 Live found that 90% of MPs elected in 2017 said they experienced some form of abuse, while the *Intimidation in Public Life: A Review by the Committee on Standards in Public Life* report found that people are being put off from standing for elected office as a result of intimidation; further understands that the Scottish Women's Convention has noted that "A huge amount of the abuse directed at female parliamentary candidates in particular is highly sexualised and dangerous"; believes that this is yet another barrier for women to be elected to public office, and notes calls for the Parliament to establish a similar Code of Conduct that would assist MSPs and Scottish parliamentary candidates to reduce intimidation and help victims deal with problems effectively as it considers that reducing intimidation is one way that the Parliament and other elected bodies in the UK can empower more women to stand for election and help achieve equal gender representation.

17:05

**Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con):** I thank colleagues from all parties for signing my motion and allowing us to debate this important issue. I pay tribute to the Jo Cox Foundation, which, together with the Committee on Standards in Public Life, has been working on a joint standard of conduct for all political parties to adhere to. It will set out the minimum standards of behaviour expected from all political party members in order to reduce intimidation and abuse in public life.

Britain's liberal democracy has universal admiration across the world. Above all, we are lucky to be defined by our freedom of expression and thought. Significantly, our ability to argue from different viewpoints is the cornerstone of respectful debate. Jo Cox said that we have

"more in common than that which divides us".—[*Official Report, House of Commons*, 3 June 2015; Vol 596, c 675.]

Indeed, win or lose, opinions can be changed and progress achieved. In the Scottish Parliament, we have a responsibility to create a culture of respect and to set a dignified tone, regardless of our differing views. In a speech on standards in

public life on 6 February 2018, Theresa May said that it is incumbent on us all in public life to

“accept our responsibility to help sustain a genuinely pluralistic public debate.”

However, the sad reality is that democracy is in decline. On top of that, respectful discourse is being undermined and disagreement is leading to intimidation. Could the Rubicon have been crossed? Can we reverse the course?

I want to take members back to the general election in 2017, which was described as “toxic” and “divisive” and in which we saw a marked increase in abuse and intimidation experienced by candidates of all parties. Death threats, rape threats, misogyny, antisemitism, racism, homophobia and criminal damage all feature in recollections of that election. A survey that was carried out by BBC Radio 5 Live in that year contacted all 630 Westminster MPs and asked about their experiences. Of the 113 who replied, 77 of whom were male and 36 of whom were female, just over half—51 per cent—said that the 2017 general election campaign had been the worst that they had ever experienced. Nearly all the MPs—87 per cent—said that they had faced some form of abuse on the campaign trail.

It is accepted that many of us experience the rough-and-tumble element of being in public life, and we are described as Teflon coated and thick skinned, but does that mean that intimidatory behaviour is acceptable? Robust discussion is of course essential, but sadly it is now commonplace to be heckled at hustings or shouted at from across the street. Moreover, in the rise of social media, we face a bigger threat that has seen insults take on a nastier and more personal edge. Social media is undoubtedly a great way for us to engage with constituents and voters, but it has become more unsociable than sociable. It is a conduit for vitriol or hurtful remarks that are designed to intimidate and which are made in the blink of an eye by anonymous individuals. Would people go to the pub and speak to someone who they do not know in the same way?

Oliver Dowden MP said:

“For those in public life, it has become harder and harder to conduct any political discussion, on any issue, without it descending into tribalism and rancour. Social media and digital communication—which in themselves can and should be forces for good in our democracy—are being exploited and abused, often anonymously.”—[*Official Report, House of Commons*, 5 November 2019; Vol 667, c 71WS.]

Although robust legislation is in place, in the form of section 127 of the Communications Act 2003, it is worth noting that in Lord Bracadale’s recent review of Scottish hate crime legislation various groups believed that legislation on online abuse should be tightened.

My family and friends tell me that they do not know how I put up with the abuse that I get on social media. It might come as a surprise to members, but I am not as bothered by it as my friends and family are, because online tools are also my friends. I can use the mute or block buttons on Facebook and Twitter or disable comments, but it is traumatic for my nearest and dearest to be bystanders to such abuse.

In that vein, my thanks go to Amnesty International for all its work and for the briefing that it kindly put together for the debate. I agree with its view that we need to see better reporting systems in place, on top of the current options.

No one would disagree that intimidation experienced by parliamentary candidates and others in public life has become a threat to the diversity, integrity and vibrancy of representative democracy in the UK. We know that women and ethnic minority candidates face the worst abuse. The Scottish Women’s Convention noted:

“A huge amount of the abuse directed at female parliamentary candidates in particular is highly sexualised and dangerous.”

Indeed, we are seeing individuals being put off entering public life, evidence of which the Committee on Standards in Public Life found during its review. We are also seeing a flux of female MPs leaving politics, announcing that they will not be standing in the forthcoming general election and citing the daily abuse that they face in their jobs.

We know that we cannot sit back. Tackling intimidation is one way in which the Scottish Parliament and other elected bodies in the UK can empower more women to stand for election and help to achieve equal gender representation and diversity.

The Committee on Standards in Public Life made a package of recommendations for action by the UK Government, social media companies, political parties, the police, broadcast and print media, MPs and parliamentary candidates. One of its recommendations was for a joint standard of conduct for all political parties to adhere to. Scottish Conservatives believe that that would be a good place to start.

I genuinely hope that members’ interest in the debate means that they agree that it is incumbent on us to set an example. With full cross-party support, we could be a force for good in considering implementing similar recommendations to those made by the committee. A sensible place to start would be the setting-up of a cross-party group and agreeing the minimum standards of behaviour that we expect our elected representatives and party members to abide by.

In answer to a question from me on social media abuse, Nicola Sturgeon said:

“We have to start with our own behaviour, call out those within our own parties and lead by example in the standards that we set. If we all do that, perhaps we can play our part in contributing to a much healthier space for public discourse on social media.”—[*Official Report*, 8 February 2018; c 24.]

Furthermore, parties could agree to incorporate the UK Government’s seven principles of public life in a revised code of conduct to ensure that politicians are aware of what is acceptable both offline and online. In any case in which the code of conduct is broken, the appropriate disciplinary action should be taken in a timely fashion.

In addition, we should consider the implementation of a parliamentary reporting system, with the Parliament issuing clear guidelines. Members should be able to report to the parliamentary body the misconduct of fellow politicians on social media, in a way that would be similar to the reporting line for sexual harassment.

Best practice guidelines for political parties and their candidates should also be issued, with the aim of protecting candidates, volunteers and party staff. A political party should subsequently have to create its own guidance for candidates and volunteers, which should be publicly available.

Last but not least, a robust reporting system must be adopted by social media operators, which already have an obligation to address inappropriate, malicious, threatening or slanderous posts. The recommendations set out in the UK Government’s response to the committee’s review outlined clearly the action that social media companies need to take, including the development of automated techniques to identify intimidatory content posted on their platforms. They must do more to prevent users from being inundated with hostile messages and to support those who become victims of such behaviour.

I thank colleagues for taking a keen interest in the debate. If we implement some of the key recommendations, we will be taking an important step in protecting our political culture from further damage. There has not been enough time to cover other important areas, such as educating young people, cyberbullying or dealing with the explosion of unregulated misinformation—so-called “fake news”. However, by setting a good example in the Scottish Parliament, we can find our way back, restore healthy debate and conduct civil disagreement respectfully.

17:15

**Annabelle Ewing (Cowdenbeath) (SNP):** I am pleased to speak in this members’ business

debate, and I congratulate Rachael Hamilton on securing it.

I served as an MP in the House of Commons from 2001 to 2005 and I have been a member of the Scottish Parliament since 2011, and I have never witnessed such a nasty and hostile political environment as there is at the present time. I am sure that we have all—regrettably—been on the receiving end of vitriolic abuse online, in correspondence or face to face. That is not just unpleasant; it is corrosive to the body politic, and that should be a matter of concern not just to politicians but to every citizen of our country.

Although we recognise that democracy as a system of government is by no means perfect, it must be viewed in the round as better than all the alternatives, so we all have a stake in tackling the issue head on, and we in the Parliament should set an example and lead the debate. I would welcome further discussions about how we can best go about that. A code of conduct might be the most appropriate route, but there might be other things that we should look at. A code of conduct could, of course, apply only to elected members of the Scottish Parliament. Political parties’ candidates would require to be dealt with directly by the political parties themselves.

In drawing up any code of conduct, we would have to be very careful that we did nothing that would impinge on robust debate. I differ from Rachael Hamilton: I would include heckling in public meetings in general terms within the boundaries of what we could call robust debate. Robust debate is essential if we are to ensure that we can stand up for our constituents and hold accountable those in positions of power. After all, that is what we were elected to do.

I, for one, was always brought up to believe that, at its heart, politics is about people and dignity, and I will call out without fear or favour any politician—or any political party—who, through their actions and policies, disrespects people, denudes them of their rights and takes away their dignity. I believe passionately in doing that.

I have talked about vitriol, collective actions that we can take and the important need to distinguish between robust debate and vitriol or abuse. Conduct that amounts to intimidation, which is an important issue, can, depending on the facts and circumstances, be a criminal offence under Scots law, so it should be dealt with as such, as should hate crimes, which Rachael Hamilton referred to, and otherwise threatening or abusive behaviour. Those are potentially offences under the criminal law and must be dealt with in that way to reflect the severity of the behaviour.

The issues that have been raised are extremely important, and they would merit a much more

detailed debate. I do not have time in four minutes to go into all the issues that I would like to go into, in particular the particularly harmful impact of such behaviour on female politicians. I know that such behaviour has a very negative impact on the willingness of females to consider putting their names forward to stand for election. We simply cannot allow that to happen, because we want to make more progress on female representation and not see that go backwards.

It is important to stress that the onus is on each and every one of us to practise what we preach, to rise above vitriol and to call out abusive language wherever it manifests itself. All politicians must strive every day to raise their game.

17:19

**Annie Wells (Glasgow) (Con):** I, too, thank my colleague, Rachael Hamilton, for lodging the motion for debate. This debate is especially welcome during an election campaign, when the differences between people and parties are often accentuated.

Of course, on this, we are all in agreement—intimidation, whatever its form, is wrong. However, there is, unfortunately, no doubt that intimidation has been on the rise in our public life, recently. As we heard, the UK Government's Committee on Standards in Public Life found in December 2017 that intimidation has become a threat to the diversity, integrity and vibrancy of democracy in the UK.

Every one of us will have experienced intimidation, at least to some degree, and several of us in Parliament have seen the full range of intimidation, from mildly offensive tweets to serious threats.

Earlier in the year, I worked with Parliament staff to bring the social media giants Facebook, Twitter and Instagram to Parliament to hold sessions for members and staff, which included online safety advice and how to report online abuse. Since those sessions, I certainly use the "mute" function on abusive messages more. However, as we have heard, although that function stops me from seeing the threats and what people are saying, they can still be viewed by my family and friends; basically, they are there for everyone to see.

Earlier this year, I spoke about a series of online threats and abuse that I had received. It got to the point that I had to contact Police Scotland and the Scottish Parliament's security team. I would like to take the opportunity in this debate to thank both those groups for the help and support that they offered. Parliament's security enhancements for MSP offices are very welcome, and I hope that they continue to improve wherever possible.

However, the problem does not go away just because we alert authorities. I have had to vary my route to work: I still cannot believe that. I have also had to change where I hold my surgeries. I used to hold them in rooms in libraries, but now I have to have them in much more public areas. I also feel that I need to watch what I am doing and where I am going, because, on occasion, the threats have come with the distressing knowledge that the people who make them know exactly where I am.

As I have said, I know that I am not alone—it is a problem that people of every party face. I read Derek Mackay's comments on the issue earlier this year. He said:

"You'd like to think that the people engaging in that on Twitter would never say such things to your face if you met them in the street, but even that's starting to change."

Sadly, that is the reality. Some people just do not see that their words and actions have consequences, and they set no limit on the abuse that they are willing to throw at others. As we have heard, that will drive people away from politics, and it will stop many young people ever getting involved in politics in the first place.

I hope that people of all parties and the media continue to raise cases when they occur, and to speak out against intimidation in every form. We cannot let intimidation become an accepted part of public life that we just tolerate. I call on every one of us in Parliament to encourage social media users to report online abuse. We must say firmly, over and over again, that intimidation must stop, because the quality of our democracy will suffer if it does not.

**Elaine Smith (Central Scotland) (Lab):** Will the member give way?

**Annie Wells:** I am sorry, but I have finished.

**The Deputy Presiding Officer:** I am glad that you sorted that out between yourselves. I do not need to referee, which is good. Elaine Smith will be the last speaker in the open debate.

17:23

**Elaine Smith (Central Scotland) (Lab):** I, too, thank Rachael Hamilton for bringing the debate to the chamber. It is a timely reminder that we all have responsibilities with regard to our own conduct and that of others, as we participate in parliamentary and campaigning activity.

As I reflect on the early days of the Scottish Parliament and the founding principles to which we all signed up, I remember the optimism with which we took on our roles in public life, and our shared belief that our Parliament would be different and would encourage others to contribute, to become involved, to scrutinise, to

challenge and to question. The Presiding Officer will also recall those days.

Challenging, questioning and scrutinising are so important if we are to make good laws that are well informed, and which can be revisited and regularly adapted and improved. That was then and is now about an inclusive Parliament that encourages participation in public life, listens to and learns from voices in our communities, and opens up increasing opportunities for all those who want to have a say in building a better society.

We have the “Code of Conduct” for members of the Scottish Parliament, which all MSPs sign up to. We have to do so. It requires MSPs to treat other MSPs

“with courtesy and respect”,

and not just in the chamber. The debate should cause us all to reflect on whether we and the staff for whom we have responsibility are adhering to that code of conduct. It should also remind us of all the work that we need to do to ensure that nobody is put off putting themselves forward for public office.

I regret to say that there have been occasions when the tone of debate and behaviour of members in the chamber have fallen short in terms of courtesy and respect, and—if I may say so, Presiding Officer—as a former Deputy Presiding Officer, I had occasion to deal with such behaviour from the chair.

Earlier this year, many members from across the political spectrum—two thirds of the eligible members—signed a motion that was lodged by my colleague, Jenny Marra MSP. It put on record the strong belief

“that there is no place for violence or threats of violence towards women engaging in public life in Scotland.”

The motion that we are debating refers to the importance of equality in representation, and we should recognise that we have some way to go to ensure that all of Scotland is represented in this chamber. On women’s voices, I pay tribute to the ongoing cross-party campaigning that is done by organisations such as 50:50 Parliament. I draw everybody’s attention to the current demands of the 50:50 campaign, which is calling for candidate quotas, for all political parties to report on diversity data for their candidates, for an end to sexism, bigotry and harassment in politics, for improvement in reporting mechanisms and for strong enforcement. Some of those issues were raised by Rachael Hamilton in her opening speech.

The motion references the Jo Cox Foundation. I strongly endorse the words of Catherine Anderson, who is the chief executive of the Jo Cox

Foundation, who reflected recently that Jo Cox’s murder is a constant reminder that the threat of violence and intimidation towards MPs, candidates, MSPs or anybody else in public life can never be acceptable. She said:

“We all value vigorous political debate and freedom of speech but that should not extend to abusive behaviour designed to intimidate and silence people. It threatens our democracy itself”.

The work of the Jo Cox Foundation and the Committee on Standards in Public Life in developing a code of conduct for which all political parties would take responsibility is welcome. MSPs have a particular responsibility, not only towards each other, but in how we debate and examine difficult and controversial issues.

I said in today’s *Morning Star* newspaper on protecting and advancing women’s rights that

“Good laws require thorough scrutiny, and as a Member of the Scottish Parliament I will continue to ask questions and listen to women’s concerns.”

I should be able to do that without vicious verbal abuse.

Creating an environment in which we can raise questions and concerns without fear of intimidation would be a good way to value the legacy of Jo Cox and encourage a diverse range of people to come forward to have their say, to stand for elected office and to play a part in public life in Scotland today and in the future.

I thank Rachael Hamilton again for lodging the motion for debate and for giving us issues to consider as we move forward.

17:28

**The Minister for Parliamentary Business and Veterans (Graeme Dey):** As is customary, I begin by congratulating Rachael Hamilton on securing this opportunity to debate the issue of intimidation in public life.

I, too, welcome the announcement from the House of Commons Committee on Standards in Public Life and the Jo Cox Foundation that they will work together on a joint standard of conduct for political parties and I support the call for this Parliament to consider a similar approach, albeit recognising Annabelle Ewing’s point about the practical application and reach of such a code. I also note that often the worst behaviour seems to come from people who are not members of any particular political party.

I also want to thank members, not for their contributions but for their tone. They were all considered and respectful—as we would want wider political discourse to be.

Freedom of speech is a fundamental tenet of any healthy democracy. Members of the public have the right to make their views known to their elected representatives and to protest peacefully if they do not like the decisions that are taken on their behalf. Those are rights that we should all continue to cherish and champion, even—or especially—if they occasionally make us politicians feel uncomfortable.

In return, though, those who campaign and stand for election have the right to freely debate any issue without fear of harm, abuse and intimidation. If, as a society, we allow abuse and intimidation of that sort to go unchallenged, we risk depriving our politics of a wealth of talent, diversity and experience.

As well as having those rights we—including politicians and political parties—also have responsibilities. Those responsibilities, which we have as parties and individuals, include self-policing and, in so doing, sending the message that there are lines that should not be crossed.

As we have heard today, some of the most shocking abuse that is directed at all levels of political office, is most frequently aimed at women, because they are women. That adds to the barriers that can discourage women from seeking public office. Such a situation is unacceptable in 21st-century Scotland, where our democracy must fully represent and reflect the rich diversity of our communities. By our actions as politicians, we should reinforce that.

Members will have read everything that was shared by Amnesty UK ahead of this debate, which illustrates the appalling abuse that is directed at women of all parties through social media. It is often the case that the acts or threats of violence that women experience online, regardless of whether they are in public life, are similar to what happens offline, which is evidenced by the inequality and discrimination that, sadly, still exists in elements of our society. The abuse and the harassment that is experienced online has its own unique challenges, of course. For example, perpetrators find it easier to remain anonymous, and distance is no longer a barrier. The internet provides space in which networks and individuals can engage in such behaviours.

As an MSP and a political campaigner, I have had cause to pull people up—supporters and opponents—on social media because of their comments about the gender or the looks of women politicians or campaigners. The delete button and, sometimes, the block button have had to be pressed on occasion. I know that colleagues will have had to act similarly.

The political parties of which we are members also have responsibilities with regard to

considering the message that we send when we select candidates who have expressed dubious or, indeed, offensive views. We are seeing progress in that regard.

As elected representatives, we should not deploy the kind of language that is so unambiguous and contentious that it inflames passions and, whatever the intent, has the effect of green lighting unacceptable abuse of political opponents. There is a clear distinction to be drawn between calling out opponents for mendacity or spin—and maybe even incompetence—and triggering unacceptable levels of abuse, the brunt of which, let us remember, is often borne not by us politicians but by our staff.

As members will recall, a comprehensive review of our hate crime laws was carried out by Lord Bracadale, and his report was published in May 2018. Two recommendations are particularly relevant to our discussions this evening. He recommended the introduction of a new statutory aggravation on gender hostility and the extension of the existing stirring up of hatred offences in respect of each of the protected characteristics. Lord Bracadale set out that that would form an integral element of an effective system to prosecute online hate crime and hate speech.

Following Lord Bracadale's review, the Scottish Government launched a consultation document entitled, "One Scotland: Hate Has No Home Here", which sought views on what should be included in a new hate crime bill. We published an analysis of findings in June 2019. As members know, my ministerial colleagues are now considering how best to progress work on developing new hate crime legislation with the intention of bringing forward proposals for Parliament to consider in this session.

The internet is, of course, an integral part of our everyday lives, and we want all citizens to be empowered and to feel confident about accessing the digital world creatively and fearlessly. However, it has become increasingly apparent in recent years that a form of regulation is required to keep users safe online. The publication of the UK Government's "Online Harms" white paper is an important step towards finding a new regulatory landscape, and we are supportive of developments in that area. We recognise that regulation of the internet is a complex area that needs to ensure the protection of freedom of speech. However, as I said earlier, with rights come responsibilities, and I bet that there is no member here tonight who has not occasionally winced or recoiled when reading social media comments. We expect the UK Government to extensively and meaningfully engage with civil society and relevant groups and, importantly, with

industry, the technology community and social media providers around those issues.

The Scottish Government continues to actively engage and work with the UK Government to ensure that Scotland's interests are appropriately represented, particularly in relation to the development of the UK Government's media literacy strategy and the work that is being delivered through the UK Council for Internet Safety. In parallel, the Scottish Government is proactively taking action on online safety for all citizens through our national action plan on internet safety for children and young people, the cyber resilience learning and skills action plan and Scotland's refreshed digital strategy.

Abuse of any nature, whether online or otherwise, against anyone, regardless of whether they are in public life, should not be tolerated. The Scottish Government fully supports the police, prosecutors and our courts in taking a robust approach to dealing with offending against anyone who suffers abuse. In 2010, the Scottish National Party Administration introduced the statutory offence of threatening and abusive behaviour, which provides legal protections for everyone, including politicians and candidates.

It is worth highlighting that the Electoral Commission and the Electoral Management Board for Scotland maintain close contact with Police Scotland and the Crown Office and Procurator Fiscal Service, and that they regularly discuss electoral integrity and security matters. The Electoral Commission has worked with the national police chiefs and the Crown Prosecution Service to produce two guidance documents for candidates and campaigners. I call on members to familiarise themselves with those guides and to share them with colleagues. I take this opportunity to reiterate the Electoral Commission's key piece of advice:

"If you feel that behaviour towards you may be unlawful or are concerned for your safety or that of others, you should always contact the police."

**Elaine Smith:** Will the minister take an intervention?

**Graeme Dey:** Indeed.

**The Deputy Presiding Officer:** It will have to be brief, because the minister needs to conclude shortly.

**Elaine Smith:** It occurred to me earlier that if, when the Parliament was established 20 years ago, I had received in the mail some of the comments that I receive online today, I would have sent them straight to the police. Over the years, have we become rather immune to some of the abuse because it is on social media?

**Graeme Dey:** The member makes a good point. The fact that we find ourselves in that situation, 20 years on, does not represent progress in any way. People need to make a judgment call on what is and is not acceptable. We have heard some good speeches about what is reasonable to accept as political knockabout or as part of the process but, self-evidently, there is a clear line that ought not to be crossed.

I will take the Presiding Officer's instruction to conclude. This has been a good and timely debate. It is clear that there is cross-party agreement that it is incumbent on us as politicians to maintain high standards of behaviour and discourse. However, like all citizens, we also have the right to work and live our lives free of abuse, harassment and intimidation. I will continue to work with members from across the chamber on that important agenda.

*Meeting closed at 17:37.*

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