



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Meeting of the Parliament

**Wednesday 18 December 2019**

**Session 5**



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# Scottish Parliament

Wednesday 18 December 2019

[The Deputy Presiding Officer opened the meeting at 13:30]

## Portfolio Question Time

### Education and Skills

**The Deputy Presiding Officer (Christine Grahame):** Good afternoon. The first item of business is portfolio question time, and we start with education and skills. I remind members that questions 4 and 6 have been grouped together. That means that question 4 gets a supplementary and question 6 gets a supplementary. Anyone who wants to ask a supplementary thereafter will come in after that. I hope that you took notes.

#### Pupil Performance Data

**1. Alexander Burnett (Aberdeenshire West) (Con):** To ask the Scottish Government how it is responding to reports that knowledge of changes in pupil performance is at a 70-year low. (S5O-03917)

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** We simply do not agree with that assertion. We now collect and publish literacy and numeracy performance data at national, local authority, school and stage level on an annual basis. That data covers around 50,000 pupils, and gives us detailed information on writing, reading, listening and talking, and numeracy. We did not have anything approaching that much detail when curriculum for excellence was implemented.

**Alexander Burnett:** The independent commission on school reform was clear last week that our data on school performance is worse now than at any time since the 1950s. That is because the Scottish National Party has scrapped almost every survey of pupil performance and pulled Scotland out of every international study except the programme for international student assessment, which incidentally showed our schools plummeting to record lows in maths and science. If the cabinet secretary is so convinced that he is making improvements to Scottish education, why does he keep abolishing any impartial evidence that could back him up?

**John Swinney:** I completely disagree with Mr Burnett's series of baseless assertions. The Government has subscribed to the PISA analysis, which was reported on two weeks ago. Last week, I made a statement based on the collection of data on the performance of 50,000 pupils across

different levels of curriculum for excellence. When that data is published, it will enable us to respond to the challenges that it throws up about performance in individual schools, so that we can improve outcomes for individual children and young people in our education system. I believe that we have more data, more information and more ability to improve performance in Scottish education and, as a consequence, to improve outcomes for children and young people.

As a matter of fact for Mr Burnett, the data on Scottish education in the PISA analysis shows that performance in reading has improved significantly and that performance in maths and science is stable, although it needs to improve. That is what we are working to achieve.

#### Co-ordinated Support Plans (Review)

**2. Ross Greer (West Scotland) (Green):** To ask the Scottish Government whether the review of co-ordinated support plans for children with additional needs will be conducted as part of or subsequent to the Morgan review of additional support needs. (S5O-03918)

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** As part of the review of additional support for learning, Angela Morgan is considering the different approaches to planning that are used to meet children and young people's needs. Ms Morgan will report to the Scottish ministers and the Convention of Scottish Local Authorities in early 2020. The findings from her review will be used to inform the work that is being done to enhance implementation of additional support for learning, including the review of the use of co-ordinated support plans.

**Ross Greer:** I asked the question because, in response to a written question that I lodged, the cabinet secretary said that the review of co-ordinated support plans would take place as part of the Morgan review. I also wrote to the people who are conducting the Morgan review, who confirmed the opposite—that it would take place subsequent to their review. I am simply asking for clarification: will it be part of the Morgan review or subsequent to it? I currently have two contradictory answers.

**John Swinney:** I apologise if we have been unclear in communicating the position to Mr Greer. The answer that I have just put on the record is designed to say that Angela Morgan will consider the different approaches to planning that are used to meet children and young people's needs. That may raise issues about co-ordinated support plans, which we will go on to review as a consequence. If we have not expressed it clearly before, I hope that that sets out the position as clearly as I can.

**Iain Gray (East Lothian) (Lab):** As the cabinet secretary knows, this is really important because the co-ordinated support plan is the only mechanism that gives a child and its family recourse to certain legal rights. Back in August, we discovered figures showing that, even of those children with additional support needs who receive support from not only education but social work, only 3 per cent have co-ordinated support plans and, therefore, access to those legal rights. Whether it is through the Morgan review or subsequent to it, will the Deputy First Minister undertake to act to ensure that more children with additional support needs get access to the legal rights that this Parliament has legislated for them?

**John Swinney:** I agree entirely with the direction of Iain Gray's point, that any child or young person who needs a co-ordinated support plan should have that co-ordinated support plan. That was the legislative intent of Parliament and that is what should be applied.

As Mr Gray knows, the decision on whether a young person has a co-ordinated support plan is not mine; it is the statutory responsibility of local authorities. That statement is not in any way an attempt to pass responsibility; it recognises a statutory fact. However, I take seriously the point that Mr Gray raises, that if a child needs a co-ordinated support plan, they should have it. That is the intent of legislation. I hope that what comes out of the Morgan review is information that enables us to take more action, if it is required, to address the issue that Mr Gray has raised with me today.

**Beatrice Wishart (Shetland Islands) (LD):** In the past 10 years, the number of additional support needs teachers has reduced, but the number of pupils requiring ASN support has increased markedly, with 31 per cent recorded as having additional support needs. One ASN teacher has described to me the heavy workload, given that it takes four to six hours to complete getting it right for every child forms for each child. How can the Scottish Government ensure that ASN teachers have time to devote to pupils while dealing with the necessary paperwork?

**John Swinney:** The definition of additional support needs has expanded significantly in the period referred to by Beatrice Wishart. That accounts for the significant increase in the number of young people who present with additional support needs. It also demonstrates the fact that we are trying to address the needs of those young people within the mainstream education system, where of course we have an increasing number of teachers. In relation to all staff who are supporting pupils with additional support needs, we are seeing a rise in numbers. The most recent data,

from 2018, shows 17,412, which is an increase from 16,343 the previous year.

It is important to recall the necessity of ensuring that the needs of individual children and young people are met, and met properly. That is what statute says. Whether that support is provided by a mainstream teacher, who is properly trained to deliver it, or by additional specific staff who deal with additional support needs, we must ensure that the needs of children and young people are met. It is the statutory responsibility of local authorities to ensure that that is the case.

### **North West Community Campus (Root Cause Analysis Report)**

**3. Colin Smyth (South Scotland) (Lab):** Presiding Officer, I apologise that, due to other parliamentary business, I need to leave the chamber after my question.

To ask the Scottish Government when the root cause analysis report on the North West community campus in Dumfries will be published. (S5O-03919)

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** The root cause analysis report has now been finalised with Dumfries and Galloway Council and other stakeholders. The Scottish Futures Trust will publish the report, along with lessons learned, early in the new year.

**Colin Smyth:** When I asked the same question in August, the cabinet secretary replied that the review was complete, so I am unsure why it has taken six months to get to where we are.

Given that the company responsible for the shoddy workmanship at the North West community campus continues to receive millions of pounds of taxpayers' money for public sector contracts, and that the review has been carried out by the Scottish Futures Trust, which is part of the model that let people down in the construction of the school, how can people be reassured that the review will get to the real cause of the problem and not be simply a whitewash?

**John Swinney:** It would be best to see the report once it is published. That might give an insight into the issues that it will raise. I would expect the report to look at the circumstances that have led to the very real issues that presented themselves at the North West community campus. I am not going to prejudge that report. It will come out and I am happy to consider the issues that arise; I will not speculate on what its content might be.

It is safe to say that it is important that the highest-quality work is undertaken on a contractual basis by all contractors—and, where

that is not the case, that contractors should be held to account.

### Teacher Numbers

**4. Angus MacDonald (Falkirk East) (SNP):** To ask the Scottish Government what its response is to the latest teacher number statistics, and what steps it is taking to retain teachers at all levels of education. (S5O-03920)

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** The school census data that was published last week demonstrates that the action that the Scottish Government is taking on teacher recruitment is working. Teacher numbers have increased for the fourth year in a row, rising to 52,247 in 2019, which is an increase of 288 on the previous year. We now have a 10-year high in overall teacher numbers, and a 39-year high in primary teacher numbers.

To further improve recruitment, we are offering bursaries for career changers to undertake teacher education in science, technology, engineering and mathematics subjects. A new phase of our recruitment campaign is under way, and we have added Edinburgh Napier University and Queen Margaret University as teacher education providers.

**Angus MacDonald:** I welcome the new numbers. I know that the Deputy First Minister is acutely aware of the current shortage of Gaelic teachers. I welcome the action that has been taken by the Scottish Government to date to increase their numbers, such as the Gaelic immersion for teachers—or GIFT—programme. The bursaries that are offered through Bòrd na Gàidhlig to help with course fees are also welcome. However, has the Scottish Government given any consideration to raising the bursary level higher so that it matches the STEM bursary, which would go a long way towards encouraging more teachers into Gaelic-medium education?

**John Swinney:** Mr MacDonald is correct that Gaelic teacher education is a priority for the Scottish Government. I discussed many of those issues at a gathering of Gaelic-medium educators in Edinburgh just a couple of weeks ago, where we focused on some of those challenges.

The question of the bursary level is a matter for Bòrd na Gàidhlig, which has made a welcome intervention. It also offers a variety of other teaching support to help individuals participate. I will—of course—raise with Bòrd na Gàidhlig the suggestion that Mr MacDonald made.

I also note that one of the challenges that we need to address is whether there are more teachers who are Gaelic speakers who could be persuaded to strengthen their capacity in the

Gaelic language to be able to be part of the Gaelic-medium education system in Scotland. That is one of the themes that are being examined in the faster rate of progress initiative on the Gaelic language that I commenced in August 2018, which is about ensuring that we deliver on the contents of the Gaelic national plan that was formulated by Bòrd na Gàidhlig and approved by ministers.

### Teacher Recruitment

**6. Gil Paterson (Clydebank and Milngavie) (SNP):** To ask the Scottish Government what action it is taking to improve teacher recruitment. (S5O-03922)

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** We continue to support universities in the development of new and alternative routes into teaching, including a focus on increasing the number of science, technology, engineering and mathematics teachers. Over the past two years, those routes into teaching have attracted around 800 people who may not otherwise have entered teaching.

We offer bursaries of £20,000 for career changers to do teacher training in STEM subjects, where the demand is at its greatest. A new phase of our teaching makes people recruitment campaign is under way, and—as I indicated to Mr MacDonald in my previous answer—we have added Edinburgh Napier University and Queen Margaret University as teacher education providers.

**Gil Paterson:** The latest statistics demonstrate that the Scottish Government's recruitment drive is working. Will the cabinet secretary tell the Parliament and—at the same time—inform the public how the ratio of teachers to pupils in Scotland compares with the ratio elsewhere in the United Kingdom?

**John Swinney:** To add to what I said earlier in relation to the new initial teacher education providers, yesterday, I visited Edinburgh Napier University and, some weeks ago, I visited the new principal and vice-chancellor at Queen Margaret University—our former clerk, Paul Grice—to see the new initial teacher education courses. I pay tribute to both universities for taking the initiative and offering their services in that important endeavour, where they are delivering very strong results.

In relation to Mr Paterson's question, there are fewer pupils per teacher in Scotland than in any other country in the United Kingdom. Although the data is not directly comparable, in primary schools, there are 15.9 pupils per teacher in Scotland compared to 20.9 in England, 22 in Wales and

22.3 in Northern Ireland. In the secondary sector, there are 12.4 pupils per teacher in Scotland compared to 16.3 in England, 17 in Wales and 15.7 in Northern Ireland.

### **Ardrossan Academy**

**5. Kenneth Gibson (Cunninghame North) (SNP):** To ask the Scottish Government what financial support it will provide to North Ayrshire Council to support the construction of a new Ardrossan academy. (S5O-03921)

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** I am pleased that an Ardrossan community learning and innovation hub—to replace Ardrossan academy and Winton primary school—is one of the projects to benefit from the first phase of the new £1 billion learning estate investment programme.

**Kenneth Gibson:** Will the cabinet secretary advise on how much the Scottish National Party Government has invested in building new schools in North Ayrshire since 2007? Will he also advise on what has been delivered for that investment, compared to the £400 million that it is costing the people of North Ayrshire, over 30 years, for the five private finance initiative schools that were built by Labour prior to 2007?

**John Swinney:** The Scottish Government supported the construction of Garnock community campus and the Largs campus, which are for pupils aged two to 18. We have supported them with significant funding of more than £44 million. That funding has enabled the creation of two world-class educational facilities in North Ayrshire, which I know will be well used by North Ayrshire Council. They are offered as part of sustainable funding, unlike the expensive system of PFI, which was such a burden for local authorities across the country.

### **Programme for International Student Assessment Results (Maths and Science)**

**7. Liam Kerr (North East Scotland) (Con):** To ask the Scottish Government whether the performance of Scotland in maths and science that was recorded in the recent programme for international student assessment results is its poorest. (S5O-03923)

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** The PISA results for 2018 show that our performance in science and maths is in line with the Organisation for Economic Co-operation and Development average, and it is statistically similar to Scotland's results from the previous survey in 2015. Those results are stable—but stable is not good enough. We are committed to

the measures that we have put in place to drive improvement in attainment across Scotland, and in particular to close the poverty-related attainment gap.

**The Deputy Presiding Officer:** If you are brief, your colleague Mr Cameron will be able to ask his question.

**Liam Kerr:** I shall be brief, then. I asked very specifically about the PISA results, which show that Scotland's performance in maths and science is at a record low—in maths it has fallen from 17th to 31st since the Scottish National Party took office. It is an appalling indictment of the Government's mismanagement and a shameful legacy to bequeath to our children. Does the cabinet secretary have any ideas on how to arrest that slide? When will the statistics start to improve?

**John Swinney:** Mr Kerr could, possibly, have said that our reading score has improved significantly, but he chose not to. Instead, he indulged in the perpetual, miserable, anti-education agenda of the Conservatives, which is all about talking down Scottish education. They tried it in the election last week and they took a hammering. They were sent homeward to think again. Scottish education is improving and the Conservatives are going downhill very fast.

### **Support for Learning (Highlands and Islands)**

**8. Donald Cameron (Highlands and Islands) (Con):** To ask the Scottish Government what action it is taking to support pupil learning in the Highlands and Islands region. (S5O-03924)

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** The Scottish Government is undertaking a range of actions to support pupil learning in the Highlands and Islands. In 2019-20, schools in the four Highlands and Islands authorities together received a total of more than £4 million in pupil equity funding.

In the same year, the Highland Council received more than £900,000 from the Gaelic specific grant to help meet the costs of Gaelic education. Highland Council is also in receipt of £4 million in capital funding to support the building of the new Gaelic school in the Inverness area. In 2018-19, around £750,000 of Scottish Government funding was used by the northern alliance regional improvement collaborative to support educational improvement across the alliance region, including in the Highlands and Islands.

**The Deputy Presiding Officer:** I ask Donald Cameron to please be brief.

**Donald Cameron:** New figures that were published by the Scottish Government show that



teachers in the Highland Council region have reported that only 60 per cent of pupils in primary 7 have reached the expected level for writing, and only 62 percent have reached it for numeracy. Does the Deputy First Minister accept that those figures are totally unacceptable, and what will his Government do specifically for primary 7 children in the Highland Council region?

**John Swinney:** As a consequence of the extensive data that the Scottish Government has collected—which totally contradicts the silly first question that was asked by Mr Burnett—we are now able to have the discussion on the subject that Mr Cameron has raised. He is quite right that performance levels in Highland schools need to improve. That is why the Government puts in place financial support for the northern alliance to assist in building and improving educational performance. It is because of the data that we have put in place that we know where the challenges are and we can support schools to improve their performance levels—that is exactly what the Scottish Government is going to do.

## Health and Sport

### Scottish Ambulance Service (Response Times Policy)

1. **Sarah Boyack (Lothian) (Lab):** To ask the Scottish Government what the impact has been of the Scottish Ambulance Service's response times policy. (S5O-03925)

**The Minister for Public Health, Sport and Wellbeing (Joe FitzPatrick):** The impact of the introduction of a new clinical response model in the Scottish Ambulance Service in November 2016 has been extremely positive.

By focusing on responding as quickly as possible to the sickest patients, the new model is saving more lives. Evaluation of the new model showed a 44 per cent increase in 30-day survival rates for cardiac arrest patients in the first year, which equates to 1,182 people. In this year, to date, of the 547 cardiac arrest calls to which the service has attended where the patient presented with a shockable rhythm, 54.8 per cent of patients have been taken to hospital following the SAS achieving return of spontaneous circulation.

**Sarah Boyack:** I raise a particular issue about what I think is a mismatch between the Scottish Ambulance Service guidelines, which put diabetic patients at low priority, and the advice of Diabetes UK, which is that any patient who becomes unconscious due to hypo needs an ambulance.

Does the Scottish Government agree with Diabetes UK on that? The context is that a constituent of mine who was unconscious waited three and a half hours, not for an ambulance but

for the Ambulance Service to check whether he was still alive and needed support.

**Joe FitzPatrick:** The member wrote to the Government about the issue and has received a response. She will be aware that there is a formal investigation into why that happened, because a three-plus hour wait for a clinical call-back is not acceptable.

It is appropriate that the Ambulance Service triages patients, to ensure that the people who most need an ambulance get the service fastest. That approach is working and is saving lives. Clearly, if the triage approach is to work properly, call-backs are needed. I am aware that the Scottish Ambulance Service is investigating the case that the member talked about.

**Liam McArthur (Orkney Islands) (LD):** How often, in some timeframe, are emergency calls waiting while Orkney's only land ambulance is already on a call? Has there ever been a time when no—

**The Deputy Presiding Officer:** Mr McArthur, it is unfortunate that we cannot quite hear you clearly. I will get the broadcasting people to put the sound up. You have such a gentle voice. Will you repeat your question?

**Liam McArthur:** I will do my best, Presiding Officer.

How often, in some timeframe, are emergency calls waiting while Orkney's only land ambulance is on a call? Has there ever been a time in the past six months when no land ambulance was available on mainland Orkney?

**Joe FitzPatrick:** I thank the member for repeating his question. I will need to look into the issue. I will be speaking to the Scottish Ambulance Service tomorrow morning, so I will raise his point directly with the service.

### General Practitioner Practices (Tayside)

2. **Murdo Fraser (Mid Scotland and Fife) (Con):** To ask the Scottish Government what its response is to reports that, since 2009, the number of general practitioner practices in NHS Tayside has fallen from 69 to 63, while the average practice list size has increased. (S5O-03926)

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** The reduction in GP practice numbers in Tayside is, in part, the result of practice mergers since 2009. Mergers can prevent practices, particularly small or single-handed ones, from closing, by reducing risk and increasing resilience. In addition, three practices have closed in Tayside since 2009. Bridge of Earn, Ardler and Stobswell were all small independent practices.

The Government has put a number of measures in place to support GP practices; I am happy to ensure that Mr Fraser has details of those measures.

**Murdo Fraser:** I have been contacted by a constituent in Perth who expressed concern about the times that they have to wait to get a GP appointment. The situation has been made much worse recently, following the closure of the GP practice in Bridge of Earn and the allocation—without any consultation—of hundreds of extra patients to the lists of city GP practices. What more can the Scottish Government do to assist with the situation?

**Jeane Freeman:** As Mr Fraser and I know, the Bridge of Earn practice closure was—this is probably the best way to describe it—not well handled. We have raised the matter directly with NHS Tayside, to ensure that there is no repetition of that. I think that we have also been in contact with the GPs from the practice and the practice to which patients have been reallocated, and we have offered to hear from them whether there are additional measures that we could offer and which they would find useful in enabling them to accommodate the additional patients.

The final point is that, as Mr Fraser knows, the issue of primary care and GP practices is not just about GP numbers; it is about the whole multidisciplinary team. I am pleased to say that, across NHS Tayside, including in Perth, we have seen a significant increase in the number of multidisciplinary teams. Those teams use the professional skills of advanced nurse practitioners, pharmacists and pharmacist assistants, and physiotherapists. There is more to do, and I am happy to take any specific suggestions Mr Fraser might have with respect to the specific GP practice that he referred to.

### **Mental Health Treatment for Children and Young People (Waiting Times)**

3. **Maurice Corry (West Scotland) (Con):** To ask the Scottish Government what action it is taking in response to reports of worsening delays in the waiting times for children and young people to receive mental health treatment. (S5O-03927)

**The Minister for Mental Health (Clare Haughey):** I have been absolutely clear that long waits for children and young people to access mental health treatment are unacceptable.

There is no simple solution in the face of increased demand for children and young people's mental health services. That is why we are undertaking an ambitious programme of work to monitor and drive forward performance in mental health waiting times across Scotland, while also supporting early intervention in community settings

and across the third sector, local government and the national health service. That includes £250 million to support positive mental health for children and young people, in addition to £58 million over four years specifically to improve access to child and adolescent mental health services and psychological therapies, and to invest in additional staff.

Through the children and young people's mental health and wellbeing programme board, which is jointly chaired by the Convention of Scottish Local Authorities, we are implementing the key recommendations of the Coia task force, the youth commission on mental health, and the Scottish Association for Mental Health audit of rejected referrals.

**Maurice Corry:** I thank the minister for her answer, and I understand what she is saying. Nevertheless, local delivery plan standards state that 90 per cent of young people should start treatment for those services within 18 weeks of referral. However, figures for the most recent quarter show that only 64.5 per cent met that standard. Will the minister explain why that mental health crisis has not improved, despite a commitment to improve early intervention?

**Clare Haughey:** As I said in my previous answer, we are working very closely with CAMHS and others to ensure that we improve overall performance on meeting the CAMHS waiting times standards. We have committed to publishing a new CAMHS specification, which lays out the standards that children and young people, and their families, can expect. That work has also been informed by the SAMH audit of rejected referrals. In the 2019-20 programme for government, we set out our plans to work with NHS boards to deliver trajectories to meet the mental health waiting time standard by December 2020. Those trajectories will be set out in boards' annual operational plans, ensuring that performance is tied to funding.

**Mary Fee (West Scotland) (Lab):** Looked-after children are a group for whom CAMHS support can be vital. When children move placements and into new areas, they can drop off already-long waiting lists and end up at the back of the queue. What assessment has the Government carried out of that situation, and what action is it taking to ensure that all looked-after children can access appropriate mental health support when they need it?

**Clare Haughey:** I thank Mary Fee for raising that issue. She may remember that one of the strands of the work of the Coia task force was to highlight vulnerable children who are at risk: both those who are looked-after and accommodated and those who are in the youth justice system and going through children's panel hearings. The children and young people's mental health and

wellbeing programme board will be looking at the specific recommendations made by the Coia task force to ensure that that particularly vulnerable group of children does not fall through gaps.

#### **Palliative Care (Homeless People)**

4. **Bob Doris (Glasgow Maryhill and Springburn) (SNP):** To ask the Scottish Government how it plans to extend access to palliative care services for homeless people. (S5O-03928)

**The Minister for Public Health, Sport and Wellbeing (Joe FitzPatrick):** Our strategic framework for action on palliative and end-of-life care makes it clear that we want everyone who would benefit from palliative care to have access to it, including people who are homeless.

To achieve that vision, it is essential that health and social care professionals have early planning conversations with people who are nearing the end of life to ensure that they get the care and support that is right for them. With that in mind, we have focused our efforts on supporting front-line health and social care services to engage more frequently and meaningfully with homeless individuals, so that they can access care and support services as quickly as possible.

**Bob Doris:** I chair the cross-party group on palliative care, which has suggested improvements including palliative care nurse specialists working with homelessness services, palliative care beds being provided specifically for homeless individuals and a range of other measures. Will the minister carefully consider the range of innovative suggestions that the CPG has made to improve the service that is provided to that highly excluded group?

**Joe FitzPatrick:** I thank the cross-party group for its work. Its suggestions are a useful contribution to the discussion, and I will ensure that they are passed on to the homelessness prevention strategy group, which is co-chaired by the Minister for Local Government, Housing and Planning and a representative of the Convention of Scottish Local Authorities. It oversees the implementation of "Ending Homelessness Together: High Level Action Plan", and includes a public health representative.

At its most recent meeting, on 10 December, the strategy group discussed the steps that could be taken to improve joint working between health and homelessness services. That is an appropriate area to focus on to ensure that we are getting that joined-up work in relation to the important issues that the member and the cross-party group have raised.

**Monica Lennon (Central Scotland) (Lab):** Sadly, a rising number of homeless people are

discharged from hospital with no home to go to. Previously, the Scottish Government has said that it has no plans to update research or to collate data on use of health services by homeless people. Will the Scottish Government reconsider that?

**Joe FitzPatrick:** The data that Monica Lennon refers to was collated in 2018. The homelessness prevention strategy group has to consider how we can use that data to ensure that people get the support that they need when they need it. One of the first issues in that regard is ensuring that, when we are dealing with people who are in that situation, their housing needs are met. That is why the housing first model is important. People have complex needs: if they have a complex health need but nowhere to stay, that presents real difficulties. The housing first model is positive and provides us with a good opportunity to act. We are in the early days of implementation of that approach, and I know that various housing first models are used across the country. However, the anecdotal feedback that I have heard so far is generally positive.

#### **NHS Highland (Locum Staff)**

5. **Edward Mountain (Highlands and Islands) (Con):** To ask the Scottish Government what action it is taking to assist NHS Highland to reduce its reliance on locum staff. (S5O-03929)

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** The number of medical and dental staff in NHS Highland has increased by 55.2 per cent between September 2006 and September 2019. NHS Highland continues to focus on reducing the cost of locums and its reliance on them. On-going actions that have been taken directly by NHS Highland include a weekly control meeting; an on-going cost improvement programme; continuing work to recruit to a cohort of clinical fellow posts; recruiting to permanent posts, including offering flexible working and alternative roles to encourage doctors to work in NHS Highland; and engaging a medical recruitment agency to focus on international recruitment to vacant posts across NHS Highland, which is meant to emulate the success of NHS Grampian in that regard.

NHS Highland is also working with the national health service's Scottish global citizenship programme to offer new opportunities to doctors to work as remote and rural consultants in rural general hospitals while being able to participate in global citizenship in Scotland and abroad.

**Edward Mountain:** We know now that construction of the new elective care centre will be delayed until early next year, and figures show that NHS Highland is spending more than £20 million a year on bank, relief and agency staff

payrolls. Is the cabinet secretary sure that she will be able to fully staff the elective care centre—when it is finally finished—without increasing those costs?

**Jeane Freeman:** It is worth noting that the figure for agency nursing and midwifery staff in NHS Highland has decreased. Although Mr Mountain is correct overall, such facts are important.

The member will be pleased to know that, in the last quarter, the vacancy rate in NHS Highland decreased to 11.7 per cent, and the number of longer-term consultant vacancies of six months or more decreased by 7.4 per cent.

A range of work is going on in recruitment. Our work to create the Scottish clinical collaborative, which we are undertaking with the Royal College of Surgeons and the north region boards, which includes NHS Highland, NHS Grampian and NHS Tayside, is perhaps most interesting. Very experienced consultants who are towards the end of their careers will take time to work in remote and rural areas, which will be of great assistance to NHS Highland.

Our workforce planning includes building in the needs of the elective centres, as well as other parts of our service. I am sure that Mr Mountain was pleased to see publication of “An Integrated Health and Social Care Workforce Plan for Scotland” on Monday.

### NHS Grampian (Waiting Times)

**7. Peter Chapman (North East Scotland) (Con):** To ask the Scottish Government what measures it plans to take in response to statistics showing that 65.4 per cent of patients referred to NHS Grampian were treated within 18 weeks. (S5O-03931)

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** As part of what is in the Scottish Government’s “Waiting Times Improvement Plan” we are making more than £108 million available to health boards in this financial year in order to increase capacity in the system through, for example, more staffing, evening and weekend clinics and additional theatre sessions, all of which will ensure progress towards delivering on that plan’s trajectories. That investment includes over £11 million to NHS Grampian where, using those additional funds, recent improvements have been put in place, including increasing capacity at Aberdeen royal infirmary, recruitment of additional staff, and utilising additional capacity at the Stracathro regional treatment centre and the Golden Jubilee hospital for orthopaedic patients.

**Peter Chapman:** Sadly, long waiting times are a familiar story in NHS Grampian, and in the north-

east we fall far below the national average. On the back of the news on waiting times, an NHS Grampian spokesperson stated that if a patient’s condition worsened, they should contact their general practitioner. However, recent GP figures show that Grampian has lost 13 GP surgeries in the past 10 years. With longer waiting times and a decreasing number of GP surgeries, can the cabinet secretary explain how patients can get the vital treatment that they need?

**Jeane Freeman:** On elective work and the initiation of the cancer waiting time, it is fair to point out that NHS Grampian has, for the second year, met the 31-day cancer waiting time target for the second quarter, and is seeing improvement towards reaching the 62-day target.

For most patients, the trigger for referral comes from their GP surgery, so I can in some ways understand why the piece of advice from NHS Grampian that Peter Chapman referred to might have been given to a particular patient.

However, I expect health boards to be in constant touch with the patients on their waiting lists in order to keep them updated on when they should expect their appointments and, if there are delays, to explain why. If Mr Chapman is aware of particular instances in which that has not happened, I will be happy to hear about them so that I can deal with them directly with NHS Grampian, as I have done with other health boards.

### Free Personal and Nursing Care (East Ayrshire)

**8. Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** To ask the Scottish Government how many people in East Ayrshire receive free personal or nursing care; what the qualifying age groups are to receive this, and what the annual cost is. (S5O-03932)

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** The latest figures that are available in free personal and nursing care Scotland statistics show that the number of people in receipt of free personal and nursing care in 2017-18 in East Ayrshire was 1,680 at a cost of £13.3 million. As Mr Coffey will know, as of April this year, personal care is free for all eligible adults.

**Willie Coffey:** I thank the cabinet secretary for the positive impact that the service—which is unique to Scotland—is having on the most vulnerable people in my constituency. Are there any plans to evaluate formally the impacts and outcomes of the policy so that we can consider further improvement in years to come in this important area of care?

**Jeane Freeman:** That is an interesting question, for which I am grateful. There are no specific plans for such an evaluation, although I am very happy to give further thought to how we might do that, and to whether it would produce valuable information for us.

Willie Coffey will be aware that this year we are—as was indicated in the programme for government—undertaking a programme of work on reform of adult social care, which we will conclude in the coming year. I have recently had a useful meeting with Alzheimer Scotland to look at what more we might do in terms of personal care and healthcare for individuals who suffer from dementia. That work will allow us to consider what more we might do in those areas. In order to balance things, we might have to do much of it in a phased way, depending on the overall cost.

I am very open to looking at what more we might do. Work is already under way on providing personal care and healthcare support for adults who require that from us in order that they can live independently, with respect, and as close to home as possible.

**The Deputy Presiding Officer:** That concludes questions on health and sport. We will shortly move on to questions on communities and local government. While we do, I remind members that questions 2 and 4 are grouped together. Jamie Greene has lodged question 2 but is not here. He had better have a good explanation for that. We will move from question 1 straight to question 4, and then on to question 3, because I know that members are sort of expecting that.

## Communities and Local Government

### Business Improvement Districts

1. **Claire Baker (Mid Scotland and Fife) (Lab):** To ask the Scottish Government what funding streams and other support is available for alternative mechanisms to the business improvement district model. (S5O-03933)

**The Cabinet Secretary for Communities and Local Government (Aileen Campbell):** BIDs are a means to empower local businesses to raise their own funds to deliver their locally agreed plans. There are no set funding streams for alternative mechanisms. The Scottish Government funds Scotland's Towns Partnership to provide support to organisations and groups that have an interest in establishing BIDs or other approaches to improving their town centres and neighbourhoods.

**Claire Baker:** The cabinet secretary may be aware of the challenges that are being faced in towns in Fife this year. This week, businesses in Cupar have supported the digital improvement

district there, but in Dunfermline, the Dunfermline Delivers BID lost its recent ballot. Dunfermline Delivers is re-emerging as a community interest company with some funding from Fife Council as a transitional measure, but it is seeking alternative funding. This year, Kirkcaldy4All decided not to go for a third ballot and is trying to reinvent itself as a digital innovation district. As the cabinet secretary can see, the model is fragile. What consideration is being given to how the changing nature of the high street and the pressure that businesses face have impacted on the ability of BIDs to be successful?

**Aileen Campbell:** I welcome the news that Cupar has approved its digital improvement district, which is the first in Scotland. We are disappointed that Dunfermline Delivers was unsuccessful in its renewal ballot. I understand that, as Claire Baker said, the council is looking at options to build on the work of Dunfermline Delivers and has agreed to provide a transition fund to help the organisation to repurpose and develop a new BID. I met the constituency member, Shirley-Anne Somerville, about that, and I know that she has been helping the group.

We want to keep BIDs under review so that they are delivering for town centres. There is a lot of success across the country, and that is why Scotland's Towns Partnership is looking to develop a new and more expansive model for BIDs, to allow them to deliver more inclusive and energetic partnerships and improved resources, to have more impact and, ultimately, to bring greater sustainable growth to all areas in Scotland. STP is looking to support BIDs in a more fulsome way so that they can avoid some of the disappointment that I know has been expressed in Dunfermline. That will help to empower our communities to take more control over their town centres.

I am happy to engage with the member. I know that Shirley-Anne Somerville has been making good representations on behalf of Dunfermline Delivers, but it is important to note that Fife has also benefited from a number of other funding streams, such as the regeneration capital grant fund, which has supported town centres across the region.

### Communities (Tackling Inequality)

4. **Tom Arthur (Renfrewshire South) (SNP):** To ask the Scottish Government how it supports communities in tackling inequality. (S5O-03936)

**The Cabinet Secretary for Communities and Local Government (Aileen Campbell):** In 2018, we invested over £1.4 billion on support directed at low-income families. That includes key investments to deliver more affordable homes, tackle fuel poverty and support our attainment Scotland fund, and more than £100 million to

mitigate the worst impacts of the United Kingdom Government's welfare cuts. Our new £11.5 million investing in communities fund will provide vital support and investment to around 250 organisations to enable them to tackle poverty, inequality and rural disadvantage across our communities. Our tackling child poverty delivery plan outlines our concrete action to reduce child poverty. That includes plans for our new Scottish child payment, which is worth £10 per child per week and will be paid to eligible families with a child under six by Christmas next year.

**Tom Arthur:** Auchenback Active, which is based at the Auchenback resource centre in Barrhead, in my Renfrewshire South constituency, does a power of work to tackle inequality in its community, including distributing Christmas presents so that children from across the area receive a gift over the festive period. Will the cabinet secretary join me in thanking Auchenback Active for all the work that it does all year round, and will she accept my invitation to visit the Auchenback resource centre next year to see its brilliant work first hand?

**Aileen Campbell:** Absolutely. Like Tom Arthur, I pay tribute to Auchenback Active for the work that it is clearly doing across its community and for its effort and endeavour. I wish that it did not have to make some of that effort; if only severe welfare cuts had not been imposed in too many of our communities, such work would not be necessary. However, I pay tribute to Auchenback Active for not sitting back and letting things happen, and for ensuring that children in the area get the support that they deserve.

The work of community-led organisations such as Auchenback Active is truly inspiring. They deliver tangible positive outcomes for local people, and I am happy to commend the good work that they do.

I would be happy to visit Auchenback Active next year. If Tom Arthur gets in touch with my office, I am sure that we will be able to fix a date soon.

### House Building

**3. Fulton MacGregor (Coatbridge and Chryston) (SNP):** To ask the Scottish Government what it is doing to encourage more house building in heavily populated urban towns and areas, such as Coatbridge. (S5O-03935)

**The Minister for Local Government, Housing and Planning (Kevin Stewart):** Scottish planning policy is clear that development plans should guide most new urban development to take place within existing settlements or in planned extensions. We are now preparing Scotland's fourth national planning framework, which will set

out where development is needed to support sustainable and inclusive growth areas in Scotland.

**Fulton MacGregor:** The minister will be aware that, in Coatbridge, which makes up the largest part of my constituency, new housing is very much welcome to regenerate the area and improve living standards, whereas, in the northern part of my constituency, such as in Stepps and Gartcosh, new developments are often more controversial because they are often proposed in the green belt. I again pay tribute to the work of the save Stepps green belt group, which I have previously written to the minister about. What is the Scottish Government doing to encourage house building on derelict and brownfield sites in urban areas rather than greenfield land?

**Kevin Stewart:** Scottish planning policy quite clearly states that the reuse or redevelopment of brownfield land should be considered before new development takes place on greenfield sites. The efficient use of our finite resource will also be considered in the review of the national planning framework, which we are about to embark on.

### Takeaway Food Outlets (Planning Policy and Guidance)

**5. Colin Beattie (Midlothian North and Musselburgh) (SNP):** To ask the Scottish Government how its planning policy and guidance to local authorities on takeaway food outlets take account of its policies on healthy eating. (S5O-03937)

**The Minister for Local Government, Housing and Planning (Kevin Stewart):** The 2018 report "Research Project: To Explore the Relationship Between the Food Environment and the Planning System" notes the lack of interaction between Scottish planning policy and diet. We have committed to exploring that issue further as we prepare the fourth national planning framework, and we would welcome discussion of those issues as part of the engagement programme for NPF4.

**Colin Beattie:** In my Midlothian North and Musselburgh constituency, there have been several instances in which a multiplicity of new takeaway food outlets have been rejected by both the local community and the council but approved by the Government reporter on appeal. Are stronger guidelines that favour healthy eating likely to be developed?

**Kevin Stewart:** I agree completely that planning policy should do all that it can to support health and wellbeing in all our communities across Scotland. As I said in my previous answer, I would welcome views in the chamber and beyond on how that can be achieved.

We will begin early engagement on NPF4 from January next year. In the meantime, I should say that reporters are required to make their decisions in accordance with the development plan, unless material considerations indicate otherwise, and having fully considered all the evidence before them, including representations from members of the public. I would welcome any submission that Mr Beattie, or any other member, wants to make so that we can get this right for NPF4.

**Brian Whittle (South Scotland) (Con):** What is the minister's response to a council in England that has managed to implement a food van exclusion zone around schools? Will the Scottish Government consider that as a way forward in healthy eating planning?

**Kevin Stewart:** As I have said, I would welcome a submission on this from any member. If they want to provide evidence of what has happened elsewhere, I am more than willing to look at it.

National planning framework 4 will see us go out and consult as many stakeholders as possible on a variety of issues. Many have an interest in healthy eating and the part that planning can play in that. As I said to Mr Beattie, I would welcome any submission from Mr Whittle on this subject.

**The Deputy Presiding Officer:** Question 6 was not lodged.

#### **Fire Safety Certification (Tower Blocks)**

**7. Mike Rumbles (North East Scotland) (LD):** To ask the Scottish Government, further to its answer to question S5O-03821, what plans it has to require privately owned flats in tower blocks over 11m high to have fire safety certification. (S5O-03939)

**The Minister for Local Government, Housing and Planning (Kevin Stewart):** There are no plans to introduce fire safety certification of the type that Mr Rumbles describes.

Provisions to address fire safety in buildings are required under building regulations at the point at which building work is carried out. That applies to all dwellings, regardless of tenure or building height.

Mr Rumbles might be interested to know that we have produced fire safety information leaflets containing advice for residents in high-rise buildings on how to prevent fires in the home and what to do if one starts in their building. Those are being delivered to all homes in high-rise buildings and will also be available in libraries and community centres.

**Mike Rumbles:** Although we know that building regulations are not retrospective—the minister said that to me last time—Scottish ministers have the power to direct local authorities to require

existing buildings to conform to current building standards under section 25 of the Building (Scotland) Act 2003. Why is the minister so reluctant to use that power?

**Kevin Stewart:** This is a complex issue. I am often castigated in the chamber for using ministerial direction, although I do so rarely. If Mr Rumbles wants, I would be more than happy to sit down with him and building standards officials to discuss the issue in some depth.

I should make it clear that the Scottish Government is not complacent about building standards. That is why we put in place the expert panels to advise us on building standards and fire safety.

We will continue to engage on all those issues so that we get it right. Members would be upset if I started using ministerial direction, but I am more than happy to talk to Mr Rumbles further on the issue.

**Sarah Boyack (Lothian) (Lab):** I am interested to hear the minister's comments; it is appropriate that we get this right.

In the meantime, what advice would the minister give to my constituents who are still experiencing problems and have concerns about the valuation of their properties when they attempt to sell them and put them on the market?

**Kevin Stewart:** I share Ms Boyack's concerns, and my heart goes out to those who are having difficulty with selling their properties and moving on. I met our officials again this morning to try to ensure that we can move UK Finance and, more important, the United Kingdom Government, further forward on the issue.

As members are aware, I have written twice to Robert Jenrick, the UK secretary of state; I have also sent him a reminder letter. Now that the UK Parliament is back, I hope that Mr Jenrick will furnish us with a response so that we can do what is necessary to ensure that Ms Boyack's constituents, and many others across the country, can get out of the difficulties that they are in. Members can be assured that I will continue to do all that I can to move the issue on.

#### **Coul Links (Planning Decision)**

**8. John Finnie (Highlands and Islands) (Green):** To ask the Scottish Government when the planning decision on the proposed development of a golf course at Coul Links will be announced. (S5O-03940)

**The Minister for Local Government, Housing and Planning (Kevin Stewart):** We are giving full consideration to the reporter's report and recommendation, which we received on 27

November, and a decision will be issued as soon as possible.

**John Finnie:** Given that the proposed development could affect a European protected site and that the decision could be made after the United Kingdom has exited the European Union, what environmental governance arrangements will be in place to provide oversight of such decisions and to ensure that environmental standards will be upheld?

**Kevin Stewart:** I have to be very careful in what I say, as Mr Finnie well knows, because the planning application in question is still live.

In general, since Ramsar sites were first designated in Scotland, they have been protected through co-designation under other regimes. Scottish Government policy on Ramsar sites, which was established in 2000, is that they be treated in the same manner as Natura sites. Natura sites are special areas of conservation and special protection areas, which are designated under the European birds and habitats directive. Although variations in the expression of that policy over the years necessitated the publication of guidance earlier this year, the policy has not changed.

## ScotRail Franchise

**The Deputy Presiding Officer (Linda Fabiani):** The next item of business is a rail update statement by Michael Matheson. The cabinet secretary will take questions at the end of his statement, so there should be no interventions or interruptions.

14:27

**The Cabinet Secretary for Transport, Infrastructure and Connectivity (Michael Matheson):** I would like to take the opportunity to update Parliament on the ScotRail franchise contract.

The benefits that our railways bring are well rehearsed: they help our economy to grow; they connect our cities and our communities with jobs, education, health services and leisure activities; they enable our visitors to explore all that Scotland has to offer; and they help to reduce the impact on our environment of moving people and goods.

Our commitment to investing in rail is unquestionable. We have spent more than £8 billion since 2007, and we will spend more than £5 billion between 2019 and 2024. That investment is delivering new services, new and refurbished trains and infrastructure improvements that will increase capacity and improve reliability.

Since last weekend, growing communities in the north of Glasgow have had access to a new station at Robroyston. The December 2019 timetable change, which took place this week, has resulted in an additional 10,000 seats on the network every day. That means extra carriages on our Edinburgh to Glasgow routes and on our busy, peak-time Fife and Borders services, as well as additional services in the north-east to maximise the benefits of our infrastructure investment. Since the start of the franchise in 2015, we have increased capacity by around 125,000 seats per day across the network. It is therefore vital that we make those considerable investments in a way that ensures best value for passengers and for taxpayers.

The current ScotRail franchise contract commenced in 2015. As required under the current legislative framework, the Scottish Government let the contract through open commercial competition. Under the terms of the contract, in its fifth year the Scottish Government and Abellio ScotRail must revisit cost and revenue assumptions. Those assumptions provided the basis for the franchise subsidy levels set at the start of the contract, in 2015, and we must consider whether they should be revised.



That is referred to as the rebasing process. In that process, the Scottish Government and Abellio ScotRail could agree to rebase and continue with the contract until March 2025, on the basis of revised revenue and cost inputs that would determine future franchise subsidy levels. Alternatively, either party could issue a no-rebasing notice, which means that the revenue and cost assumptions that determine subsidy levels remain as they are and the contract comes to an end at an earlier point, which would be expected to be March 2022.

The rebasing process commenced on 1 October this year and a decision on whether to serve a no-rebasing notice is required by no later than 31 December. My officials have undertaken extensive and rigorous analysis of the information provided by Abellio ScotRail about the rebasing option and commercial issues concerning a 10-year franchise term. As well as consideration of the effects on passengers, there has been a detailed and thorough analysis of the key financial, legal, economic and operational aspects. Of critical importance was that we measured the information provided against the policy principles that underpin the franchise, which include value for money, passenger satisfaction and full exploitation of the utility and capacity of the network.

I thank the team at Abellio ScotRail for the proposal that they have made and the wide range of information that they have provided in support, which has allowed me to consider the range of issues that are pertinent to the rebasing decision. After careful consideration, the Scottish ministers have decided not to rebase the contract. We are not satisfied that the significant increase in public subsidy that would otherwise be required would generate commensurate benefits for passengers, communities and the economy. As such, we do not consider that rebasing would secure the delivery of the policy objectives that underpin the current franchise.

I can confirm that I have, today, issued a notice to inform Abellio ScotRail of the decision. Therefore, the current franchise agreement is expected to come to an end in March 2022. The existing provisions in the franchise agreement continue as they are set out in the contract, and we will work closely with Abellio ScotRail to ensure the delivery of the requirements of the franchise, including performance and service quality. We will also maximise the benefits of our significant investment in our railways, in order to provide the best possible services for passengers and support growth.

There have been successes and challenges over the first five years of the franchise. We have maintained a good working relationship with Abellio ScotRail throughout that period and I fully

expect that that will continue for the remainder of the contract and that it will support us in the delivery of our ambitious programme of transformation on Scotland's railways.

I believe that the decision that I have advised the Parliament of today in respect of the ScotRail franchise is the right one for passengers, communities, the economy and taxpayers. It is, of course, necessary to plan for the future provision of ScotRail services, and I can confirm that work has already been undertaken to examine the options open to the Scottish ministers after the current contract comes to an end. This will, of course, mean regular engagement with trade unions and other stakeholders.

Looking further ahead, I fully expect that changes in the structure of railways, not just in Scotland but across the whole of the United Kingdom, will take place as a consequence of the UK rail review undertaken by Keith Williams. While we await the outcome of the review, I very much hope that it will see an end to the present complex and costly franchising system for rail services. For now, services will, of course, continue to operate. Abellio ScotRail remains contractually committed to delivering quality rail services. This Government has made significant investment in our railways and we will ensure that we maximise the benefits for passengers and taxpayers.

I conclude by recognising the role of ScotRail staff, their continued hard work and their commitment to delivering essential services to the people of Scotland.

**The Deputy Presiding Officer:** The cabinet secretary will now take questions on the issues raised in his statement, and I intend to allow around 20 minutes for that. There are already a lot of indications from members wanting to ask questions, so I ask everyone to be as concise as possible and to make sure that they press their request-to-speak button.

**Jamie Greene (West Scotland) (Con):** I start by paying tribute to the thousands of people who work on Scotland's railway, many of whom will be watching the statement, given that they had no formal notice and will have learned about the decision as it was announced by the cabinet secretary.

The statement raises a number of questions. What engagement did the Government have with the current operator in coming to the decision? Leading on from that, what analysis was undertaken of the consequences of the decision to terminate the contract early, specifically regarding potential job losses? Will today's decision have any effect on services currently provided by Abellio? What analysis has been done of the effect of the decision on current and future investment

plans for Scotland's railway between now and 2022? However, the most important question that the public will rightly be asking is, who will run the railway post-2022? Nothing in the statement gave any insight as to the Government's plans, other than "to examine the options". Surely, the cabinet secretary should have examined the options before terminating the existing contract.

The statement answers one question but raises plenty more. The public will rightly be concerned and surely deserve answers.

**Michael Matheson:** Jamie Greene's initial comment was that the hundreds of thousands of staff who work for ScotRail were given no advance notice of this announcement. My responsibility is to report it first to the Parliament, and that is exactly what I have done. Had I not done so, I suspect that he would have been on his feet demanding answers as to why the information was in the public domain before I had come here and made a statement to Parliament. The reality of the situation is that I am making sure that Parliament is informed of these matters.

The member asked what engagement was undertaken with Abellio ScotRail regarding the decision. As I set out in my statement, Abellio ScotRail submitted its rebasing proposal to the Scottish Government through Transport Scotland. The proposal underwent a very rigorous, detailed analysis in order that we could come to this decision. There is a requirement within the franchise agreement to undertake the rebasing exercise: it has to be undertaken, there are no two ways about it. I assure the member that we undertook a very thorough, detailed analysis of the proposal that Abellio ScotRail put to us.

The member also asked about the potential consequences for jobs in Abellio ScotRail. As it stands, we would expect the contract to continue for its remaining two years. As has been the case for previous contracts, staff transfer to any new operator that takes over a franchise. That was the case in 2015.

One thing that our franchise agreement has, but which the Department of Transport does not pursue in its transport agreements down south, is a no-compulsory-redundancy provision. That remains in place and is a commitment that continues to apply to Abellio ScotRail.

The member made two further points, on current services and future investment. Current services will continue as they are at present, because we expect the contract to be in place for its remaining two years. The record investment that we are making in rail in Scotland in the course of control period 6 will continue as normal. Services will continue to be delivered, projects will continue to

be provided, and we will continue to see the transformation of our rail services.

The member's final point was about looking to the future. If there is a delay in deciding what the future of rail services in Scotland and in the rest of the UK will be, it is because the UK Government has been sitting on the Williams review since autumn this year. It could have published the review in October, but it chose not to do so. We are still waiting to see what the outcome of that review is. Once we know that, we will have a better idea about the scope that we will have to shape rail services in Scotland in a way that reflects the needs of the Scottish people and of the Scottish railway network.

**Colin Smyth (South Scotland) (Lab):** I thank the cabinet secretary for advance sight of his statement. Since the start of this franchise, Abellio has failed to deliver for Scotland's hard-pressed passengers. They have suffered delays, overcrowding, cancellations and fare hikes. Abellio has failed to meet the basic contractual requirements. It has breached the franchise agreement in relation to punctuality, cancellations and passenger satisfaction, and it has let down the hard-working ScotRail staff. I am glad that the Scottish Government is finally backing my calls, and Scottish Labour's calls, made time and again, to end this failing franchise.

I know that part of that failure is because of the fragmented, privatised railway system, which should also end. We await the outcome of the Williams review to consider the exact nature of any contract that replaces the Abellio franchise.

Will the cabinet secretary guarantee today that the Scottish Government will ensure that a public sector operator will be properly prepared and in a position to take on the contract, so that Scotland's railways can at last start to put passengers, and not profits, first?

**Michael Matheson:** I thank the member for his comments. I said to Jamie Greene that, in considering the rebasing proposal that ScotRail put to us, we carried out a very detailed and thorough analysis of its submission. However, I can confirm to Mr Smyth that his personal views on the issue did not factor into that assessment, which was founded purely on the rebasing process.

Colin Smyth's second point was on the public sector bid. He does not seem to acknowledge or recognise that our hands are tied at the moment, because our only option is to have a franchise bid for rail services in Scotland. We have the scope for a public sector body to bid for a franchise agreement against other parties who are bidding for any franchise that is let by the Scottish Government.

Colin Smyth might be happy to continue with franchising; I am not. As I have previously stated in this chamber, I want to get rid of franchising, so that we can have a public sector service in Scotland that reflects the needs of the people of Scotland. I assure the member that we will do everything that we can to get the powers here in Scotland to determine the future shape of Scotland's railway. I hope that we will get the support of the Labour Party in demanding from the new Conservative Government that all powers over rail should be devolved to this Parliament, so that we can use them in a way that reflects the needs of the Scottish rail network.

**The Deputy Presiding Officer:** We move to open questions, and I have a lot of requests.

**John Finnie (Highlands and Islands) (Green):** I thank the cabinet secretary for early sight of his statement. I warmly welcome the end of the franchise and mourn the fact that we cannot go straight to nationalisation. I hope that the Labour Party and others will call for full devolution. It is important that trade unions are involved as we go ahead, and I hear what the cabinet secretary says about franchising. That is our view too—we want to go straight to nationalisation.

However, if franchising exists, can the cabinet secretary assure us that he will put a robust public sector bid together with no expansion of driver-only operations? Will he rule out following the hard-right UK Government's punitive employment proposals and guarantee that Scotland's rail workers will have the full range of workplace rights, including the right to withdraw their labour?

**Michael Matheson:** On the member's latter point, the answer is yes. I am aware of the concerns that have been raised, particularly in relation to the proposed changes that the UK Government is suggesting should be introduced—the legislative changes to curb the right of transport workers on the railway to take industrial action. I completely oppose that approach. The best way to deal with industrial relations is to nurture and cultivate positive industrial relations, rather than resorting to legislative changes and the punitive approach that the UK Government is intending to take. I assure the member that that is not in our thinking or in the approach that we will take.

There will, of course, be a robust public sector bid if we are confined to nothing other than a public sector bid for a franchise, but I am conscious that that is a costly exercise for a public sector organisation. It could cost some £10 million and the organisation would potentially be bidding against other parties. That is why we need to get rid of franchising for rail services: it is costly, complex and does not serve the public well. We need to have all the powers over rail in this

Parliament in order to determine the way in which we run and shape our rail services. I give the member an assurance on both his points.

**Mike Rumbles (North East Scotland) (LD):** This is good news indeed. I very much welcome the decision to end Abellio ScotRail's contract, which the Liberal Democrats have been calling for, and the cabinet secretary has made it at the earliest practical opportunity. I congratulate him on making that very wise decision.

What action will the Government now take to make sure that there is stronger protection for customers in the future contract? Will it provide more break points in the new contract to ensure that there is a better chance to correct poor performance—which is what we are concerned about—earlier?

**Michael Matheson:** I am grateful for Mike Rumbles's comments on the matter. He touched on an important issue. I do not want to start speculating about any future contracts, on the basis of my hope that I have heard correctly that the contents of the Williams review could lead to an end to franchising of that nature. There may therefore be an opportunity for us to look at arranging rail services in a fundamentally different way that will help to address the issues that Mike Rumbles highlighted.

Mike Rumbles also touched on something much more fundamental in our rail services. The way that the regulatory function operates through the Office of Rail and Road is at times too slow, not only in picking up poor performance in rail infrastructure and by train operating companies, but in taking proactive action to address those matters. The regulatory function needs to change to become more passenger focused and to improve services for passengers. Alongside that, we need to see greater alignment between infrastructure and passenger services. Too often, infrastructure is dealt with through a heavy rail industry focus and is not passenger focused enough. It needs to be aligned in a way that makes it much more passenger focused.

Given my discussions with Keith Williams and what I have heard are the key issues that have been set out in the Williams review for the UK Government to consider taking forward, I hope that the UK Government will take those issues forward. In the end, that is a political decision, but if the UK Government does that, it could allow us to change things fundamentally in a way that addresses the issues to which Mike Rumbles referred and which is much more passenger focused and aligns the issues more effectively. I am certainly prepared to work with members from across the chamber, should the powers be devolved to this Parliament to allow us to do that.

**The Deputy Presiding Officer:** I know that the cabinet secretary's answers are fulsome and probably appreciated, but they are rather long, which means that some questions will need to be cut out. I ask him to bear that in mind.

**Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** I welcome the cabinet secretary's statement. He will be aware of my continuing interest in supporting the improvement of rail services from Kilmarnock, and from Ayrshire as a whole, to Glasgow and Edinburgh. His recent visit to Kilmarnock to meet industry representatives highlighted the potential that electrification could bring for the local economy. How does he see that work moving forward, given his announcement today?

**Michael Matheson:** I am aware of Willie Coffey's interest, given that both Wabtec Rail and Brodie Engineering have bases in his constituency, which I had the pleasure of visiting fairly recently.

In our programme for government, we set out our ambition to decarbonise our rail network, a key part of which will involve greater electrification. In the next couple of months, we will set out our plans for how we intend to go about that, which will include looking at the electrification of a range of different parts of the existing network. I cannot give a specific commitment to Kilmarnock in the way in which Willie Coffey seeks, but I can assure him that our plans for infrastructure investment will continue, with the record investment that we have set out for control period 6.

**Liam Kerr (North East Scotland) (Con):** Performance concerns have many causes: 40 per cent of cancellations are caused by problems with tracks or signalling, 10 per cent are caused by non-ScotRail operators and 20 per cent are caused by the weather, circumstances outside of its control or passenger incidents. The cabinet secretary's decision does not begin to address any of those issues; if anything, it makes them worse. Is it not the case that what is really happening is that the franchisee is being made a convenient scapegoat for the Scottish National Party's failure to understand the challenges of running a railway, and that the decision sets up any future franchisee or operator for failure?

**Michael Matheson:** That is a bit rich from the Conservative Party. Week in and week out, Conservative members come into the chamber to slag off ScotRail and to demand better services. Every time that I raise the fact that the vast majority of delays and cancellations on the network in Scotland are caused by infrastructure issues that are the responsibility of Network Rail, which is the responsibility of the UK Government, Conservatives boo me and say that that is just an excuse to cover for ScotRail, but now they are

trying to defend ScotRail. I ask them at least to be consistent if they are going to stand up and make comments about rail services in Scotland.

The real answer to Liam Kerr's question is whether his Government will commit to implementing the recommendations that Keith Williams makes in his review. Ultimately, following his review, there will need to be a political decision on whether there should be a fundamental change to the way in which our rail services operate. That will involve getting rid of franchising, allowing different models for the provision of rail services and ensuring that infrastructure and passenger services are much more closely aligned—in the way that Liam Kerr mentioned—so that they are much more passenger focused. If that happens, we will be able to make such decisions here in this Parliament.

In recognising the infrastructure challenges that we have in the Scottish routes, I hope that Liam Kerr will recognise that this Parliament should have responsibility for those challenges and that we should be able to align infrastructure with our passenger services in order to improve overall passenger satisfaction levels. I hope that he will be big enough to recognise that, but time will tell.

**Jenny Gilruth (Mid Fife and Glenrothes) (SNP):** Can the cabinet secretary provide any further detail on whether his decision will have implications for the current Abellio contract between now and 2022?

**Michael Matheson:** The existing franchise agreement and the contract's content continue to be in place. Through the various levers in the contract, we can continue to hold Abellio to account in any areas in which we have concerns and in which it might be failing.

**Jackie Baillie (Dumbarton) (Lab):** I thank the cabinet secretary for the early Christmas present to the hard-pressed commuters in my area, and I welcome his recognition of Scottish Labour's campaign, which highlighted the myriad problems with the rail service. Commuters in Helensburgh, Balloch and Dumbarton have experienced delays, cancellations, skip-stopping and short-form trains, with passengers crammed in like sardines. Those problems continue today, so what assurances will he give my constituents about the level of service that they will receive from now until March 2022, when the Abellio contract finally comes to an end?

**Michael Matheson:** I am pleased to give Jackie Baillie's constituents an early Christmas present, if that is how she views the matter. It is a decision that was made purely on the basis of the rebasing requirement in the franchise agreement.

I recognise Jackie Baillie's concerns and the service issues in her area, parts of which are addressed through the Donovan review. Work is

being progressed, and it is being monitored independently in order to ensure that progress continues to be made.

Despite the problems that there continue to be in the network, I am sure that Jackie Baillie will recognise that improvements have been made in addressing a range of issues; it has certainly been the case that improvements have been provided as a result of the Donovan review. Alongside that, the remedial plan will be put in place for improvements that ScotRail has to take forward. Equally, Network Rail needs to undertake measures on improving reliability.

I know that there have been particular issues on the line to Dumbaron, which has failed on a number of occasions. We need to make sure that Network Rail is doing everything that it can to minimise that type of recurring problem on the route to Dumbaron, and in any other part of the Scottish network.

All the provisions that are in the franchise agreement at the moment continue to be there; they will continue to be enforced, and we will continue to work with Abellio ScotRail to make sure that it is held to account on those matters. I assure Jackie Baillie that we will continue to focus on making sure that, where concerns about passenger services are raised, Abellio ScotRail addresses them.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** The cabinet secretary mentioned the UK rail review. When it is eventually published, how will he take it into consideration for the future of rail services?

**Michael Matheson:** We had hoped to have the outcome of the UK rail review in the autumn of this year, when it was anticipated—possibly in October. However, it was delayed by the UK Government, and we still await the outcome.

I have had positive engagement with Keith Williams on a number of occasions. He recognises the specific demands that we have in Scotland, and I was always very welcoming of his sympathetic approach to the issues that exist for the Scottish rail network. I hope that the UK Government will make the right political decision and allow us to have the range of powers in Scotland so that, in running our rail services, we can consider a variety of different models for how those services are provided. I hope that the UK Government will publish that review, and its outcome, in the next few weeks.

**The Deputy Presiding Officer:** If Rachael Hamilton is quick, I will manage to get John Mason in.

**Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con):** In October of this year,

Dominic Booth, Abellio UK's managing director, said:

"Scotland's railway needs stability, not the upheaval a change in the franchise would bring about."

Will the cabinet secretary explain why bringing in what is, in effect, a break clause will not lead to further uncertainty for passengers on the Borders rail line and across Scotland, and for the hard-working staff in terms of job security?

**Michael Matheson:** I hope that Rachael Hamilton will welcome the significant improvement that there has been on Borders rail services, including the provision of increased capacity as part of the December timetable change.

As I said in my statement, I point out to Rachael Hamilton that this is part of the rebasing process that is set out in the franchise agreement. The debate earlier this year was very much about just ending the franchise, and that being it. However, this is about the rebasing process, which is a very technical and detailed process, in which very detailed analysis is being carried out. As such, it comes as no surprise to Abellio ScotRail. It submitted a rebasing notice to us, and we made an assessment of it.

Our decision was based on the significant cost increase associated with rebasing, which we do not believe would have been commensurate with improving services for passengers, given the additional costs that there would have been for taxpayers.

I will certainly look to work with Dominic Booth and his colleagues at Abellio ScotRail over the next two years to make sure that we maximise the benefits of the existing franchise, while we remain part of it.

**John Mason (Glasgow Shettleston) (SNP):** In recent years, there have been huge improvements in the rail service; there certainly have been between Glasgow and Edinburgh. We now have five electrified lines, we have the 385s, which are tremendous trains, we have more seats and we have less overcrowding than there used to be. Will all those improvements carry on, whatever happens?

**Michael Matheson:** Yes. All the commitments that were set out as part of our plan for investment in the franchise and our infrastructure investments will continue as part of the franchise and in control period 6; I give John Mason that assurance. We want to build on the significant improvements that we have seen in rail over the past decade or so and to ensure that that continues in the years to come.

**The Deputy Presiding Officer:** I can squeeze in a quick question from Claire Baker.

**Claire Baker (Mid Scotland and Fife) (Lab):** I very much welcome today's announcement, but ScotRail's contract with Abellio will still last until 2022, and as we enter the severe winter period my constituents are about to face a price hike in their fares. What guarantees can I give them that they will no longer have to put up with a substandard service?

**The Deputy Presiding Officer:** Can the cabinet secretary please give a quick answer to that question?

**Michael Matheson:** The member will be aware that we have put a remedial plan in place to specifically address concerns and issues about performance in the Fife circle area. As a result, we have seen marked improvements: reductions in cancellations, improvement in punctuality and increasing seat capacity, which has just come in as a result of the December timetable change. There is certainly more to do, because some of the real benefits that we want to see delivered on the Fife circle area are dependent on the delivery by Wabtec Rail and Angel Train Contracts of high-speed trains, which will further increase capacity. I hope that, as we go forward into the May timetable, we will see further improvements as a result of increasing capacity on the Fife circle.

**The Deputy Presiding Officer:** That concludes questions on the rail update statement. I am sorry that I was not able to reach Rona Mackay or Neil Findlay.

## Ferguson Marine

**The Deputy Presiding Officer (Linda Fabiani):** The next item of business is a statement by Derek Mackay on Ferguson Marine.

15:01

**The Cabinet Secretary for Finance, Economy and Fair Work (Derek Mackay):** I am grateful for the opportunity to provide Parliament with an update on Ferguson Marine shipyard in Inverclyde.

The Scottish Government has been working for two years to support a commercial solution for the future of the business and its workforce. We are committed to securing a future for commercial shipbuilding on the Clyde and are proud of the steps that we have taken to save Ferguson Marine.

In August, as a result of the extensive cost and time overruns to the two ferries under construction and severe cash flow limitations, the directors of Ferguson Marine Engineering Ltd gave notice of their intention to put the business into administration. In order to remove the threat of closure, Scottish ministers took control of the yard. That action avoided a lengthy administration that would have created further uncertainty for the workforce and further delays for the communities awaiting delivery of the vessels, and it protected the value of the loans that the Scottish Government had provided to the business.

We immediately took steps to stabilise the business and get delivery of the ferries back on track. We completed the commercial transaction on Monday 2 December, establishing the new business, under the name of Ferguson Marine (Port Glasgow) Ltd, as a company that is wholly owned by the Scottish ministers. Shipbuilding in Scotland is a proud part of our nation's history, and this Government was not prepared to see the expertise and skills that have been established over more than a century disappear into insolvency. As a result of our actions, we have ensured that shipbuilding on the lower Clyde will be part of our nation's future.

My priorities for Ferguson Marine remain the same as I set out to Parliament in my statement on 3 September: to protect jobs at the yard, deliver much-needed new ferries and secure a future for Ferguson Marine and commercial shipbuilding on the Clyde. The alternative for the Scottish Government was to walk away, which would have resulted in hundreds of job losses, the yard's closure and our vital ferries not being finished. I was not willing to walk away.

I publish today a suite of documents that details the Scottish Government's engagement with Ferguson Marine since the award of the ferries contract in 2015 until the business entered administration in August, and our commitment to a successful outcome. The papers tell the story of the significant issues under the previous management and the steadfast position of the Scottish Government, which acted in good faith at all times to secure a future for the yard.

The contract for the ferries anticipated delivery in mid-2018. The customer, Caledonian Maritime Assets Ltd, had personnel in the yard throughout the build and first highlighted concerns in November 2016. The Scottish ministers encouraged CMAL and FMEL to work together and made every effort to find a solution to FMEL's problems, including the possibility of mediation, the provision of commercial loans and the input of a range of expert external advisers, often in response to requests from FMEL when it raised concerns regarding the project contract.

Concerns about progress on the vessels were raised at various points, and the advice that we received on those from FMEL and Clyde Blowers Capital—as well as a number of advisers, including independent advisers who were appointed specifically to provide assurance on progress—was conflicting. The lack of clarity on the progress of the vessels and design changes, and the prospect of litigation by FMEL under the contracts, has hindered the project throughout.

The Government consistently acted in good faith, on the best information that was available to us. It is unfortunate that, despite our best efforts, the problems that were incurred by the yard in delivering the design and build contract for vessels 801 and 802 could not be resolved.

The full picture was not revealed until the new management team had control of the yard. On 16 August, we appointed Tim Hair as turnaround director. His mission was to stabilise the business and put in place a programme to complete the two ferries. A programme review board of key stakeholders was established to oversee the work and provide guidance.

I received the board's final report on 13 December. Copies are available at the rear of the chamber. The report, which has been published today, sets out in stark detail the failings of the previous management. It is difficult to overemphasise the disastrous impact that the absence of proper management processes had on the yard. That has implications for the condition and progress of the ferries that are being constructed in the yard and for the scale of the challenge that lies ahead to put right the failures of the previous management team.

I thank the employees and the new management team, who have worked so hard to deliver the report. The skill, commitment and quality of the workforce has never been in question. The new management team is focused on developing key management practices to implement new and robust processes that will better meet the needs of the business and provide greater control. That will ensure that the mistakes of the past are not repeated.

The challenges that the new management team has faced include the failure to implement a sound management information system on which to base any assessment of progress to date, and critical issues with the design process for the vessels and the approvals process for that design—the design programme for the vessels, which was the responsibility of FMEL as part of the design and build contract, is several years behind, and getting it back on schedule will be a key area of work. Project planning was largely absent, which resulted in out-of-sequence and often abortive work. Controls on subcontracted resource and materials were lacking. Quality control through the build-out process was largely absent, and the vessels have not been maintained in the condition in which we would expect them to be maintained.

It is, of course, of significant concern to me that the advisers who were placed in the yard to report to the Scottish Government could not pinpoint the full extent of those issues while the previous management was in place.

Since we took control of the yard, significant progress has been made in re-organising it. Significant work is under way to address known defects and to take remedial action to ensure that the steel in the vessels receives the necessary paint protection.

Further information is required so that we can fully understand the implications for delivery of the vessels. That includes information on the full extent of rework that is required across the vessels; the condition of the underside of vessel 801, which will need to be inspected in dry dock; and the ability to successfully commission equipment where warranties have expired. The list is not exhaustive. I hope that it provides a sense of the scale of the challenge.

The contracts for the vessels had a value of £97 million and a further £1.5 million increase was agreed through proper mechanisms in the contract; £83 million was paid out to FMEL.

The failures of management, planning and process mean that the vessels are behind their original programme and significant rework is required. As a result, we expect further costs, including the £15 million outstanding of the £32.8 million for vessel 801 and £45.9 million for vessel

802. That includes an allowance of £12.8 million for rework and remediation, which will be undertaken in the period to May 2020. In addition to that, a further £31.6 million will be required for overheads such as yard running costs, consumables and personnel, which would be included in the contract price.

As a result, the additional cost to complete the vessels, beyond the contract price, and to improve the management and operation of the yard in order to do so, will be £94.8 million. The PRB report indicates that the figure could increase to £98.8 million if certain risks materialise.

All those additional costs result directly from the delay and the poor management of the previous management team. They are based on estimated delivery windows of October to December 2021 for 801 and July to October 2022 for 802.

Transport Scotland will continue to work with CalMac Ferries and key stakeholders to mitigate the impact of the delay to the ferries, including by using the ferries resilience fund of £4 million to improve the resilience of the fleet.

We will also continue to take forward a comprehensive review of the needs of the ferry network, develop a future pipeline of vessels that are required to service our island communities, and explore the role that Ferguson's can play in meeting those needs.

Public ownership of the yard will allow us to ensure that the ferries are completed and provide the workforce with security. We are already seeing progress: 68 new staff members have been recruited to support the yard's work, and the detailed understanding that we now have of what it will take to complete the ferries is a significant step forward.

Sound governance will be important to ensuring the stability of the business and a clear sense of commercial direction going forward. A board and chairperson will be appointed in the coming months, with members being selected to ensure that the business benefits from the direction of people who have the skills, expertise and experience to support its success.

Bringing the yard into public ownership was the only viable option to achieve our goals of delivering the vessels, safeguarding the jobs and giving a future to the yard. It was, and is, the right thing to do, and I am proud of the progress that has been made since the Scottish Government took control of the business on 16 August. We now have a team approach to work together to complete the vessels, safeguard the jobs and give a future to the yard. That has been our guiding mission throughout, and we will deliver.

**The Deputy Presiding Officer:** The cabinet secretary will now take questions on the issues raised in his statement, and I will allow around 20 minutes for that.

**Jamie Greene (West Scotland) (Con):** I thank the cabinet secretary for advance sight of his statement. The information was promised to Parliament by the end of October and was conveniently buried until after the election. After hearing the cabinet secretary, I now know why.

The on-going saga of the new CalMac ferries is one that should be a source of great shame to the Scottish National Party and all its members. It is an abject failure to deliver to our island communities new ferries, on time or on budget, as today's statement confirms.

Beleaguered shipyard workers had their business put into administration as a direct result of the actions of the Scottish Government. The cabinet secretary, with no hint of irony, wants us to praise him for saving the yard, which his own Government put at risk of closure in the first place. It is shocking.

The ferries were expected in 2018 and were due to cost £98 million. Today, we learn that the ferries will cost at least £200 million and will be at least three and a half years late. The cabinet secretary is quick to blame the management team at the yard, which begs the question: what Government oversight was taking place during the construction phase?

What role did CMAL have in the demise of the yard in the first place? Where was it during the so-called failures that the cabinet secretary spoke of?

After the yard went into administration, what offers were received for it and on what grounds were they rejected, given that the Scottish Government was the largest creditor in the process?

How much of the money that was paid by the Government to the yard as loans has been written off? What does the cabinet secretary think that the total cost to the taxpayer for the two ferries will be, does he think that that is value for money, and how many ferries could that money have paid for?

Finally, will the cabinet secretary advise those in the chamber what happened to the other commercial work on the yard's order books, given that the yard is now state owned?

**Derek Mackay:** I simply say that it is astounding for a Conservative to talk about shame in shipbuilding—it was the Conservatives who destroyed shipbuilding and many other industries in Scotland in which this Government has intervened. If it was not for the actions of the Scottish Government, Ferguson's would not have a tomorrow. It is the actions that we have taken



today that will ensure that Ferguson's has a future, and that is the important point here.

In a perfect world, it would have been better if Ferguson's had been able to deliver the two ferries that we paid it for under the £97 million fixed-price design and build contract. I am sorry to say that the previous management has failed and that is why we are in the position that we are in today.

Let us look at what happened at Harland and Wolff—a shipyard elsewhere. What did the United Kingdom Government do when that shipyard went into administration? Nothing. Jamie Greene asked me a question about the workforce. I tell him: the workforce appreciate that it was the SNP that saved the shipyard and their jobs and ensured a continuity of employment. Because of the orderly process that we undertook, the workers did not lose a single penny.

Jamie Greene asked me why other bids post-administration were rejected. That is a matter for the administrators. Does Jamie Greene not even understand the process of administration? We put forward the best bid.

I have outlined the additional costs. Of course, it is regrettable that we will have to pay more money, but the alternative is to walk away, close the yard, lose the jobs and not complete the vessels. The Conservatives are saying, "Isn't it terrible? The vessels are going to be late." However, there would not be any vessels if they had their way, because the Tories vote against our budgets that are paying for the vessels in the first place.

On independent analysis and oversight, we got conflicting reports. There was a poor relationship between CMAL and FMEL—I think that that is perfectly well understood. We did not just leave the matter to the opinion of either side; we had independent experts consider the matter, and then we got further conflicting advice. That is why I have published so much information today. In the cold light of day, the information that we have received shows that, with our guiding mission, we have done the right thing throughout. That is why I have been open, transparent and clear with regard to the mission that we have set out.

On the loans, we committed £45 million-worth of loans to support the business. We were being called on to support FMEL and the business in terms of diversification and working capital, and that is what we have done. Actually, the loans are what put us in a strong position in terms of being able to take public control and, ultimately, ownership of the yard.

The Conservatives have a choice. Do they want to support us in rejuvenating commercial shipbuilding on the Clyde—yes or no? I fear that, unlike this Government, they just want to play

politics with people's lives, whereas we have saved jobs and we will deliver these vessels.

**The Deputy Presiding Officer:** We have had only one question answered, and it has taken five minutes—

**Jamie Halcro Johnston (Highlands and Islands) (Con):** It is not our fault.

**The Deputy Presiding Officer:** Excuse me. I am speaking at the moment and I do not wish to be interrupted.

There is an issue on both sides. There are far too many questions for them all to take one and a half minutes to ask, and the cabinet secretary took far too long in his answer, too. That will have a direct effect on back benchers, as will the time that I am having to take to explain this.

**Rhoda Grant (Highlands and Islands) (Lab):** The statement lays bare the disastrous mismanagement of the contract, which has doubled in price and is now four years late. The Scottish Government appears to be passing the buck, but it has responsibility for how taxpayers' money is spent. Because it has dithered and mismanaged things, the people in Arran, Uist and Harris are now left with inadequate ferry services and no reprieve in sight, and the workforce at Ferguson's has faced uncertainty about its future.

We support the Scottish Government's decision to take the yard into public ownership in order to rescue those jobs and vessels. However, it should never have come to that.

What legal action is the Scottish Government taking to recoup costs, given the alleged failures of the previous management? In the interim, will it lease additional vessels to ensure sustainability in the CalMac routes that are affected? Will the cabinet secretary take this opportunity to apologise to the workers and the communities that the Scottish Government has badly let down?

**Derek Mackay:** I have visited the workers, and I was applauded by them, so I do not think that they are looking for an apology from me. They are probably looking for an apology from those who choose to play political games with Ferguson's. Our mission throughout was to try to deliver a contract.

Let us be clear: it is just like the comments that I have heard, such as, "What has Abellio got to do with the railways?" and "Who is responsible for delivering the railways?" In this case, it was FMEL that was delivering a design-and-build contract. Unfortunately, it has failed, and the Government has intervened as a consequence. Rhoda Grant said that she welcomes the Government's intervention, and I did not hear her make a single suggestion about what we could have done differently. At every stage, we were intensively

involved to try to ensure that the resolution could be found. However, we have to deliver value for money, act within the law and act in good faith, and that is what we have done.

I invite the Labour Party to read the information that I have committed to publishing today and to say what it would have done differently. Just like the Conservatives, the Labour Party has not supported any of my budgets, which paid for these vessels in the first place. Therefore, when the new vessels are complete, it will be no thanks to the Labour Party.

**Maureen Watt (Aberdeen South and North Kincardine) (SNP):** Does the minister agree that, sadly, many of the issues that were faced by the yard were a result of FMEL's failure to recruit enough professionals with the right technical expertise and know-how to undertake the building of the vessels?

**Derek Mackay:** I heard the Conservatives complain about my opinion, but the information that I gave on the failure of the yard is not my opinion; it is the view of the turnaround director Tim Hare, who has presented his findings at the yard and the plans for the remedies. There was an issue of management capability and leadership at the yard that needs to be addressed, but we are getting on with doing that. I have a turnaround director and have brought the programme review board together to achieve that outcome.

**John Finnie (Highlands and Islands) (Green):** The Scottish Government is to be applauded for its intervention. My constituents will have picked up the phrase "estimated delivery window". I acknowledge the £4 million resilience that the cabinet secretary referred to. The baseline for all our discussions on this matter is the ferry replacement plan, which he referred to as a pipeline approach. Of course, that pipeline is blocked at the moment. Is he able to say when the blockage will be removed and what the "estimated delivery window" for the third vessel—which is mightily long overdue, too—will be?

**Derek Mackay:** I will make two brief points. First, as I touched on in my statement, we should now look very closely at a future pipeline of work for vessels. The minister who is responsible for ferries, Paul Wheelhouse, would be happy to pick up the second point on the Islay vessel. My point is that if we get this process right and we turn around the fortunes of Ferguson Marine, we may well have an opportunity to place further work there, which will be welcome in the development of a robust future pipeline of vessel replacement and investment long into the future.

**Mike Rumbles (North East Scotland) (LD):** I am afraid that the original placing of the orders for the two new vessels has resulted in an almost

doubling of their costs, with an extra £100 million from the taxpayer over the three to four-year delay. The cabinet secretary blames Ferguson Marine's management for that. He knows the detail. Could he therefore lay out exactly what due diligence was undertaken when he lodged the contract with Ferguson Marine's management in the first place?

**Derek Mackay:** I will not be able to do justice to the answer to that question without breaching your request to be concise, Presiding Officer. That is why I have published a whole list of documents that Mike Rumbles is more than welcome to go through. I have been proactive in publishing those documents and making all that information available, some of which might have been requested through the freedom of information process.

Of course due diligence was undertaken on a quality and cost basis when the contract was awarded. Of course, there was oversight throughout the build.

**Murdo Fraser (Mid Scotland and Fife) (Con):** You did not do a very good job.

**Derek Mackay:** I hear Murdo Fraser saying that I did not do a very good job. Remember that the Conservatives awarded a ferry contract to a company that had no boats during their Brexit preparations. We had the wisdom to award a ferries contract to an actual shipyard—which is revolutionary.

I go back to the important point that there was oversight, but we got conflicting information, and even sending in an independent advisor added to the very muddy picture of what exactly was going on. The full extent of our knowledge of what was going on at the yard came only when we took control over the yard. That now equips us with the information and intelligence to turn the yard around and make sure that it is fighting fit into the future. The workforce appreciates that. I said before that the issue was not with the workforce. Frankly, it was with management and management processes.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** I thank the cabinet secretary for his statement and for the decisive action that he has taken thus far. Can he provide an assurance that the two-year window provides the Scottish Government with the opportunity to plan the future pipeline of work while vessels 801 and 802 are being completed, and will Ferguson Marine (Port Glasgow) Ltd be the yard that will obtain those orders?

**Derek Mackay:** This answer will allow me to complete the answer to the question that Jamie Greene quite fairly asked me. Yes, we will get on with completing the two vessels that CalMac is

keen to have in its fleet as quickly as possible. There are other contracts and other work that we also want to see completed, but that is still a matter between us and the ferry companies involved. Of course, I want that work to be completed. There is also potentially a lot of interest in the Babcock type 31 frigates.

The structure that we will design should enable Ferguson Marine to take work from both the public and private sector so that we can optimise the opportunities for work to come to the yard from anywhere. However, we need to restore its reputation and complete the vessels that are currently under construction.

**Murdo Fraser (Mid Scotland and Fife) (Con):** The Scottish Government puts the blame for this fiasco firmly at the door of the management of Ferguson Marine for its failure to deliver on the ferry contract, but that begs a question. Why, in 2014, was Ferguson's deemed to be a suitable company to be awarded the contract, given that the management was, to use the finance secretary's word, "disastrous"? Who in the Scottish Government took the decision at that time? Will they be held to account for their actions?

**Derek Mackay:** As Murdo Fraser knows very well, Government ministers are given recommendations by officials who have done appropriate weightings of bids. Ferguson's came out as the best bid, and it was on that basis that the contract was awarded. I do not think that anyone could have foreseen in 2014 the management failures that we have seen. No one foresaw them. What we did know was that Ferguson's had a very strong workforce. It is a good place to do business, but the actual design and delivery—

**Murdo Fraser:** The management was "disastrous".

**Derek Mackay:** Well, that has come to light after the past few years. It would have been great if we had had a crystal ball and had known then what we know now, but the point is that, when faced with the actions and the information, the Government has taken appropriate action.

Members should not just take my word for it. There is independent opinion, there have been independent reviews, and I am publishing all the information. It is not just Derek Mackay's opinion. I am informed by others, and not least by the turnaround director, who had no axe to grind with Ferguson's.

I know that Murdo Fraser is pulling my chain a wee bit here, but he also knows that our actions have been the right thing to do.

**Kenneth Gibson (Cunninghame North) (SNP):** I welcome the cabinet secretary's statement. I am sure that he will understand the disappointment of my Arran constituents that, with sea trials, it is likely to be the summer of 2022 before the Glen Sannox enters service on the Ardrossan to Brodick route. Does he agree that that will at least allow ample time to ensure that the Ardrossan harbour redevelopment is completed, taking the needs of the Glen Sannox fully into account and delivering a more reliable service for the people and communities of Arran?

**Derek Mackay:** I think that the member makes a fair technical point. Paul Wheelhouse will be more familiar than I am with the issues to do with Ardrossan harbour, but I believe that progress is being made there. If there is a silver lining to the timescale, it is that there is now time to make sure that the harbour is absolutely fit for purpose for the new vessel.

Kenny Gibson, Alasdair Allan and other members have been pursuing me aggressively for some time for delivery of the vessels, because the communities that they represent really want them to be delivered. I understand that. That is also why we have invested in the resilience fund so that we can support CalMac when it is under pressure. We have pushed the fleet to the maximum capacity in order to try to respond to islanders' needs.

**Neil Bibby (West Scotland) (Lab):** If the workforce had been listened to earlier, we would not be in this position. The only way that even the delayed times and costs will be kept to is if there is unity of purpose among the workforce, the management and the Government. Does the cabinet secretary agree that the workforce should therefore be represented not just on the programme board but on the company board, too? Is he aware of the GMB's concerns about the recent use of temporary and agency workers?

**Derek Mackay:** I can only say that I have very strong relationships with the trade unions. I see Neil Bibby nodding at that. It would not be truthful to say otherwise. I have put trade union representation on the project review board and I am very happy to look at future structures as well, but I know that the priorities of the trade unions have been to ensure an orderly transition and continuity of employment, to save the jobs and to give the yard a future. I am absolutely committed to that, and the workforce knows it.

**The Deputy Presiding Officer:** Brevity would help me to get everyone in.

**John Mason (Glasgow Shettleston) (SNP):** I understand that 290 direct jobs and 60 contractor jobs are involved. I am not sure how many jobs there are in the supply chain. Can the cabinet

secretary clarify how many jobs in the local community have been saved through the action?

**Derek Mackay:** Based on my most recent figures, the current head count is 334. That comprises 150 permanent staff, 175 temporary staff and nine staff from the contractors that are involved. In addition, recruitment is going on for new employees, with 33 vacancies, so more people will be employed at Ferguson's as a consequence of our action.

I was delighted to attend the passing out parade, if you like, of the apprentices. It was great to see them completing their apprenticeships and looking forward to employment in Ferguson's.

**Jamie Halcro Johnston (Highlands and Islands) (Con):** The cabinet secretary will be aware that a significant number—potentially as many as half—of Scotland's ferries are ageing and will require to be replaced in the coming years. Among those are a number of boats in Orkney and Shetland's interisland fleet, as well as others across the Highlands and Islands. Those are vital, lifeline links.

Given that the Scottish Government intends to explore the role that Ferguson's will play in providing vessels for the future, can the minister assure my constituents that they can have confidence in the procurement process, that they will not see a repeat of the chaos that there has been, and that communities across the Highlands and Islands will not bear the brunt of delays?

**Derek Mackay:** The point that I have tried to explain is that there might be a virtue in the Scottish Government's owning a shipyard in respect of a future pipeline of work. That is not to prejudice what might happen in the future, because my commitment is not necessarily on the ownership of Ferguson's. However, the fact that it has a future will safeguard the jobs and mean that it can complete the vessels.

I have been a transport minister, and I know about the demands on the ferries and the nature of the ageing fleet. As I have said, if we are building up capacity to ensure that there is shipbuilding in Scotland, we could very well have a robust pipeline in the future, but not to the exclusion of potential private sector work going to Ferguson's.

Yes, I can give that assurance. We will look at investment in the ferry infrastructure, as we have done, having committed over £1 billion to the ferry network over the past number of years. We have a strong track record of investing in the ferry network, the vessels, the harbours, the infrastructure and road equivalent tariff. I am disappointed that the design-and-build contract has not been successful. However, rather than walking away, we are remedying the situation.

**The Deputy Presiding Officer:** Alasdair Allan should ask a quick question, please.

**Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP):** The cabinet secretary will be aware of how important it is to my constituents in Harris and Uist that vessel 802 in particular enters into service as soon as possible and that both vessels relieve pressure on an ageing fleet. Given the delay, what will be done to engage with communities in Uist and Harris on any revised delivery date?

**The Deputy Presiding Officer:** That was not very quick. Can we have a quicker answer, please, cabinet secretary?

**Derek Mackay:** We are straying into the transport minister's territory. However, as I have said, I have made resources available for resilience, and we will engage with communities. My on-going commitment is to continue to report to Parliament on the progress of the vessels and the progress that we are making. If there is any substantial change to the costs or to the timescale that I have set out, I will ensure that members are aware of it. As I have already pointed out, Alasdair Allan has been very enthusiastic in ensuring that the vessels are delivered. That is why I know that he will be delighted to know that we will finish the job.

## Female Genital Mutilation (Protection and Guidance) (Scotland) Bill: Stage 1

**The Deputy Presiding Officer (Linda Fabiani):** The next item of business is a stage 1 debate on motion S5M-20223, in the name of Christina McKelvie, on the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill.

15:33

**The Minister for Older People and Equalities (Christina McKelvie):** I am very pleased to open this stage 1 debate on the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill, which is an important bill that will make a real difference to women and girls who are at risk of, or who have experienced, the abhorrent practice of FGM.

As members know, the Equalities and Human Rights Committee published its stage 1 report on the bill earlier this month. That report gave unanimous support for the principles of the bill. I thank the convener and members of the committee for their thoughtful and considered report. We responded to it quickly and positively on 11 December, and I am sure that members have now had the opportunity to read that response. Above all, I thank the organisations and experts who took the time to provide their invaluable perspective to the committee. It is incredibly valuable to have that lived experience.

Like other forms of gender-based violence, FGM is a manifestation of power and a means of controlling the sexuality of women and girls. It is a form of violence against women. As the minister responsible for the Scottish Government's work in the area, I am committed to preventing FGM in Scotland and ensuring that girls and women who are at risk of FGM are protected from harm.

FGM has been illegal since 1985. The bill seeks to add to the existing protections and improve the system response for women and girls who are at risk of harm. It has been established that at least 200 million girls and women across 30 countries have been subject to FGM. Its prevalence in Scotland is difficult to estimate because of the hidden nature of the crime. A Scottish Refugee Council report in 2014 found that there are communities potentially affected by FGM in every local authority area in Scotland, with the largest communities being in Glasgow, Aberdeen, Edinburgh and Dundee.

This issue is not new, but this Government has been taking action. In 2016, we published the national action plan to prevent and eradicate FGM

in Scotland. The purpose of the national action plan is to foster an environment of prevention in Scotland, and to improve the welfare and quality of life of FGM survivors. We are taking steps to engage with communities, raise awareness and improve the response of front-line services. Our work includes strengthening the existing legal protections for those who are at risk of FGM.

The Female Genital Mutilation (Protection and Guidance) (Scotland) Bill creates a new specific FGM measure—a protection order—which means that our public services and our courts will be able to focus on the need to protect those persons who are at risk or those who have already suffered from FGM being carried out on them. Building on the experience of other jurisdictions in the United Kingdom, and reflecting on the support for that in our consultation, it is an effective and proven approach to reducing the risk to potential victims.

Under the bill, FGM protection orders will be made by a court and will be unique to each case. The orders will contain conditions to protect girls and women from FGM. Further, and in addition to what the equivalent orders in the rest of the UK can do, law enforcement agencies will be able to use the orders against those who wish to perpetrate this terrible crime, restricting their activities even when no potential victim has been identified.

To support the new protection orders, the bill places a duty on ministers to issue statutory guidance on the protection orders, and gives them the power to issue guidance on FGM more generally.

I turn to the committee's report, which made a number of points and recommendations. The committee asked us to be mindful of the risk of racialisation and stigma in developing guidance and training. I have been clear in rejecting the assertion that the bill racially profiles communities, although I acknowledge the importance of being careful with language and the reality of stigma. The public bodies that are tasked with responding in this area are working to embed equality and diversity within their workforce, and that will help to reduce risk. We will work to ensure that guidance and training are shaped by communities, and that they reflect the reality of FGM.

Community engagement was a strong focus of the committee, and it is absolutely critical for me. The phrase "nothing about us without us" is my watchword. Following royal assent, we will put in place a comprehensive programme of engagement with communities and stakeholders to shape guidance.

Ensuring that support is available for women and girls who are at risk of, or who have experienced, FGM was also identified as

important. We will work closely with the Convention of Scottish Local Authorities to ensure that clear information on the support available is included in the guidance. The third sector also has a critical role here, and we will continue to fund work in that area.

The committee noted the importance of education and links with the wider child protection system. We are absolutely clear that FGM is a form of child abuse, and our national child protection guidance for Scotland is being updated now to reflect that. In schools, the Scottish Government believes that it is for teachers, schools and local authorities to determine how best to deliver learning and teaching on any topic and subject, in line with the curriculum for excellence. However, we support our schools and teachers to deliver relevant and engaging learning. Earlier this year, we supported publication of an online teaching resource for relationships, sexual health and parenthood education. I have seen that excellent piece of work at first hand, and I encourage all members to take a look at it. It is incredibly helpful. It includes content on FGM that can be targeted at the early secondary level. There is also material for the late primary level to create the building blocks so that our young people can better understand what constitutes abuse.

The committee considered additional provisions that are in place in the rest of the UK relating to anonymity for victims, a duty to notify and the creation of a specific offence of failing to protect someone from FGM. I am pleased that the committee agreed with our assessment that a duty to notify and a failure to protect offence should not go into the bill. The committee asked us to look at what more we could do to ensure that those who seek anonymity in court can be granted it, and I have undertaken to respond to that point before stage 2.

Underlying many of the issues that we will discuss today is the need to ensure that people and communities play a central role in shaping the services, policies and statutory guidance. That is key for me as minister. As I have said, I am committed to taking forward a comprehensive programme of engagement and involvement as we implement the legislation. In that way, we can make sure that what we do helps to prevent FGM, disrupt the activities of perpetrators, provide protection to those who are at risk, provide the support required and, through participation, give a voice to people and communities who are affected by the practice. Therefore, the bill, alongside our action plan, provides the right mix of prevention and protection.

I want to end my opening speech by quoting someone called Waris Dirie, a Somalian activist

against FGM. This is how she described her own terrible memory of undergoing FGM:

“Mama tied a blindfold over my eyes. The next thing I felt my flesh was being cut away. I heard the blade sawing back and forth through my skin. The pain between my legs was so intense I wished I would die.”

If the bill prevents just one person from going through what Waris experienced, it will be well worth it.

I commend the general principles of the bill to Parliament.

I move,

That the Parliament agrees to the general principles of the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill.

**The Deputy Presiding Officer:** I call Ruth Maguire to speak on behalf of the Equalities and Human Rights Committee.

15:40

**Ruth Maguire (Cunninghame South) (SNP):** Over the past few months, the Equalities and Human Rights Committee has heard from women’s organisations, academics, midwives, educators, police and other professionals. We have heard how the UK Government and agencies handle FGM, and about the interaction between protection orders and asylum and immigration.

However, the most powerful evidence in our scrutiny of the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill came from our engagement with organisations and through meeting survivors and front-line workers. They told us about the difference that protection orders might make, and how Scotland can better deal with and prevent FGM. I would like to share some of their experience with members.

As part of our engagement, we worked with the outreach and engagement teams in the Parliament on a digital storytelling project. Through a series of workshops, women who have been affected by FGM created short films of their experiences, which meant that they could tell their story their way, in a supported and safe environment. Those digital stories make powerful and difficult viewing, and I urge members who want to get a greater understanding of FGM and the impact that it has on women to view them.

When we are talking about FGM, I do not particularly like the word “story”, because it suggests fiction—it suggests a neat narrative and a happy ending—and, for many of the women we met and heard from, neither of those is true. The situations in which FGM is a threat can be complicated and complex. If FGM seems far removed from members in the chamber, the digital

stories show us that it is a very real thing for some women in Scotland.

In our evidence, we heard concerns about racialisation. We recognise those concerns, and we asked the Scottish Government to be mindful of the issue as it develops the statutory guidance around FGM. We know from our evidence that there is no one culture or community that practises FGM. It is found around the world, and it is always a fundamental violation of human rights.

FGM contravenes articles in the European convention on human rights relating to cruel, inhuman or degrading treatment, and it contravenes other human rights treaties, including the convention against torture, the International Covenant on Civil and Political Rights, and the Convention on the Rights of the Child. We are all entitled to the same human rights, but we recognise that, when we try to realise them, we come from different starting points. For the women and girls who face the threat of FGM or who have to deal with its consequences, that starting point can seem a long way back.

Through our work on human rights, we have learned that the key to realising human rights is to take a person-centred approach. To put that simply, as lawmakers, we must understand that we all have different backgrounds and needs. For our laws to be good laws, we must put the individual at the centre and involve them in the process. The women who shared their digital stories want to be involved. They have lived experience and expertise, and they must be at the centre of work on the bill as we move forward.

What did women tell us that they needed? At the Women's Support Project in Glasgow, Mary Fee and I heard from women about the struggles that they faced finding suitable healthcare. One of the women said that she felt as though she stood out in her hijab and was embarrassed to be in a sexual health clinic. Women wanted to speak to someone who understood their experiences in a supportive environment. They wanted help and support to be available, and not just through maternity services. We welcome the Scottish Government's commitment to look at that further.

At the Multi-Cultural Family Base in Leith, Oliver Mundell and I heard about a woman who had come to Scotland with her children and husband on a temporary visa. During their time in Scotland, they had a daughter. The family were due to return to their home country, where the girl would face FGM. The mother did not want that to happen. Her options were to return to her home country, where her daughter would be cut, or to seek asylum in Scotland. The more we understand what her choice means, the more we can see that it is not much of a choice. As an asylum seeker, she would be in Scotland with her children but without her

husband, and she feared that she would be disowned by her family. She would be relocated from Edinburgh to Glasgow, far from the community and connections that she had made, and she would face poverty and uncertainty in the name of protecting her child. We were asked how a protection order would help this woman. Would it assist her asylum case? Would it give her time and space to assess her options? Would it provide housing for her and her children? Answers to those questions will be key to the success of the bill.

As a committee, we agree with the general principles of the bill. We welcome anything that can provide additional protection to those facing the harm of FGM, and we heard from our witnesses that the bill's protection orders would do that. However, we heard from women and communities about their need for support. Legislation in isolation will not stop FGM in Scotland. For the bill to work, we must look at the support that women need, and we should put them at the heart of developing that support. That is how we will ensure that the bill will make a meaningful change for women and girls.

I finish with a plea from one of the digital stories created by all the women together as they reflected on their thoughts and hopes for the bill. They told us:

"Do not doubt stories about FGM. They are real. We want our thoughts and our voices to be heard in our own words. We want change and we hope our experience can help bring this change about."

On behalf of the committee, I offer my sincere thanks to all those who gave evidence, shared their experiences and helped us to form our conclusions. We believe that the bill is an opportunity to create a new chapter in the story, and we urge the Scottish Government to ensure that the legislation is truly person centred. As the minister told us, there must be "nothing about us without us"—make these women the leading roles and not the supporting actors.

The Equalities and Human Rights Committee supports the general principles of the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill.

15:47

**Annie Wells (Glasgow) (Con):** We welcome the publication of the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill, and the debate.

FGM is a form of violence against women and girls, and it is a violation of their human rights. FGM includes all procedures involving partial or total removal of the external female genitalia, or other injury to the female genital organs, for non-

medical reasons. It is mostly carried out soon after birth or when the person is a young girl; occasionally, it is carried out on adult women. Because FGM is carried out at different ages, it can be difficult to identify when a girl is at imminent risk of FGM.

There are no health benefits of FGM: it is likely to cause short-term and long-term physical and psychological harm. The procedure can cause serious injuries, including severe bleeding, problems in urinating, cysts, infections and, potentially, complications in childbirth. As we have heard, more than 200 million girls and women who are alive today have suffered FGM. I am thankful that the practice is far from being a norm in Scotland and the UK, but we should still send a clear message about how wrong it is, and we should do whatever we can to prevent it.

Scotland has developed specific legislation and policy on FGM; we have a broad range of tools to support and protect women and girls who have been subjected to FGM. The practice has been a criminal offence in the UK for 34 years, since the Prohibition of Female Circumcision Act 1985. In the rest of the UK, excluding Scotland, the Female Genital Mutilation Act 2003 repealed and replaced the 1985 act. The Prohibition of Female Genital Mutilation (Scotland) Act 2005 carried out the same functions in Scotland. The 2005 act made it an offence to have FGM carried out abroad, and it increased the maximum penalty to 14 years imprisonment. It also changed the terminology from “female circumcision” to “FGM”.

To date, no criminal prosecutions have been brought in Scotland under either the 1985 act or the 2005 act. There could be many reasons for that. There is no doubt that, for some people, it is difficult to challenge family members. In some cases, there might not be enough evidence to prosecute and, sometimes, professionals might be reluctant to speak out on what they mistakenly believe is a cultural or religious practice.

We welcome the publication of the bill and today’s debate. We are firmly behind the principal aim of the bill, which is to strengthen legal protections for women and girls who could be at risk. The bill makes provision for FGM protection orders—a form of civil order that will be able to impose conditions or requirements on a person. The protection orders’ aim is to protect a person from FGM and to safeguard them from harm if FGM has already happened.

Although we firmly back the principles of the bill, we believe that a further look is needed at some areas. As the minister said, we believe that more work needs to be done on victim anonymity. In its evidence, Police Scotland highlighted that there might be a need for automatic anonymity for anyone who comes forward. It said that there can

be a difficulty in dealing with instances of FGM in that victims have an inherent fear of repercussions. The police say that without the protection of automatic anonymity, there might be a barrier to people reporting the crime. I am pleased to have heard the minister committing to coming back to us on that before stage 2.

The police also suggested that that problem could be mitigated by the inclusion of FGM in the Vulnerable Witnesses (Criminal Evidence) (Scotland) Act 2019. That would mean that all victims of FGM would have access to non-standard special measures—for example, use of a prior statement or providing evidence on commission.

We also believe that more work needs to be done—for example, through the legal aid process—to remove barriers for those who seek help with FGM protection orders. As the Law Society of Scotland said in evidence, the bill has “significant implications”. For example, there are issues to consider in relation to raising awareness within communities in Scotland that FGM is an unacceptable practice. The Law Society fears

“that those at risk may well not have their first language as English so they may experience problems in communicating and understanding.”

**Elaine Smith (Central Scotland) (Lab):** Will Annie Wells put to her colleagues at Westminster the argument that FGM needs to be considered seriously in relation to asylum seekers? It is an important point that ought to be made.

**Annie Wells:** I will be happy to write to the Secretary of State for Scotland to ask what the process will be, going forward. We received communication at the committee, but I will write as well for clarification of how we can make sure that we are looking after these vulnerable women.

Finally, Conservative members believe that there needs to be a further look at working with front-line health workers to understand how data on FGM can be recorded better. The General Medical Council supports the bill and recognises the role that doctors and other healthcare professionals can play, but has stated that statutory guidance should provide details of additional responsibilities on healthcare workers.

In summary, I say that although we feel that further work is needed in some areas, the Scottish Conservatives support the broad principles of the bill. Clearly, FGM is an abhorrent practice that must be rooted out. We will support proposals that support victims of the crime, and we hope the bill can prevent FGM from happening in the first place.



15:53

**Elaine Smith (Central Scotland) (Lab):** I am pleased to be opening for the Labour Party, especially as I have a history in Parliament of involvement in legislating on FGM. I thank the cabinet secretary for introducing this welcome addition to existing law to prevent and eradicate FGM. I thank the committee for its work, on which my committee colleague, Mary Fee, will expand when she speaks.

As FGM survivor Neneh Bojang, from Edinburgh, said of the bill:

"I was just nine years old when I was subjected to FGM. It was excruciating and has caused me pain throughout my life. If this Bill prevents even just one woman from going through the same, then in my eyes, it will be a success".

I served on the Equal Opportunities Committee when the Labour-led Administration introduced the Prohibition of Female Genital Mutilation (Scotland) Bill. At that time, we heard harrowing testimony from women who had been subjected to this horrendous act of violence, and who carried the scars and health problems for the rest of their lives. I was the committee's gender reporter, and I met Somali women out in the community. They were keen to share their experiences, their medical problems, their trauma and their suggestions—but not to do so publicly. That is something that we must really reflect on. In order to hear from them on the record at that time, the committee met in public, but the witnesses were protected by being given anonymity. That was quite a groundbreaking way to gather the invaluable evidence, experiences and opinions that were used to shape our legislation in Parliament.

There are really no words to describe how barbaric the procedure is. It is usually performed on small girls, without anaesthesia and with little or no hygiene, and it is often fatal.

During our evidence gathering, members of the Somali women's action group in Glasgow could not believe that what we deemed to be a criminal offence against a UK national or permanent resident was not an offence against asylum-seeker women and children. My amendments to the Female Genital Mutilation (Scotland) Bill shaped the eventual legislation such that it became a criminal offence in Scotland for FGM to be carried out on all women and girls.

I turn to the situation in 2019. The World Health Organization estimates that more than 200 million girls and women who are alive today have undergone the practice, and that every year 3 million girls are at risk of undergoing FGM. Unfortunately, we do not have available data for Scotland on the incidence of FGM. However, the Scottish Refugee Council has estimated that about

24,000 men, women and children who are living in Scotland were born in a country where FGM is practised to some extent.

Progress has been made in global efforts to eliminate FGM: a girl is one third less likely to be cut than she was 30 years ago, although that means that there are still far too many being cut. Before we become complacent, I note that UNICEF warns that population growth means that, by 2030, more than one in three girls worldwide will be born in the 30 countries where FGM is most prevalent. That will mean 68 million more girls will be at risk, which is quite alarming.

Another worrying change has been the medicalisation of FGM, which means that medical professionals normalise the practice by claiming that safer methods make it acceptable. They might argue that that is damage limitation, but it is still damage. It goes against the ethics of the medical profession, and I think that there is no justification for it.

It is also important to note that there is no religious requirement for FGM in any country or culture. However, it is a sensitive issue, and we must not stigmatise the communities in which we believe women and girls are at high risk of FGM.

The University of Bristol has worked with the Somali community this year, and the report that has been produced is instructive. Existing safeguarding services in England were found to be stigmatising and traumatising. The families who participated were already committed to eradicating FGM, but found that statutory approaches could be offensive and traumatic, especially considering that some of the mothers were also victims of FGM. School referrals had led to unannounced home visits by social services staff and uniformed police officers. We must not repeat those mistakes here.

Those issues must be considered, but others must be, too. For example, midwives—who, like most of the medical profession, are key in the fight to eradicate FGM and deal with the issues that it raises—are struggling because of funding cuts. The Royal College of Nursing has noted that it is of significant concern that 26.5 per cent of posts in midwifery and nursing are vacant posts. If we are to give extra responsibilities to teachers, medical practitioners, social workers and police officers, we cannot ignore vacant places, shrinking numbers and cuts to services in those professions.

A new strategy is definitely needed. In February 2019, we saw the first person in England to be found guilty of FGM. There have been no prosecutions in Scotland, but we know that that does not mean that FGM is not being practised here.

I welcome a strategy of prevention and detection that must always avoid stigmatising and persecuting vulnerable members of the community. I look forward to following the progress of the bill. On behalf of Scottish Labour, I say that we support the Government bill.

15:58

**Patrick Harvie (Glasgow) (Green):** In an opening speech in a debate like this, it is the norm to thank the committee for its work. That is particularly important in my situation; when a political party does not have a member on the lead committee, it is an extra challenge to get to grips with the work that has been done. Usually, the challenges are around the complexity of the legislation. This bill is not complex legislation, but it raises highly complex issues. We all recognise that it is difficult to learn about the lived experience of the survivors of FGM, so I thank the committee for the work that it has done in producing the report.

Our purposes should be twofold. That is recognised in the legislation as well as in the wider work that the Government has undertaken on the issue. The bill is partly to protect women and girls from the risk that FGM will be perpetrated against them, but it is also to provide safeguarding and support for people who have already come through that experience—the survivors of FGM. In both those purposes, looking at people who are at risk and at people who are in need of support, complex issues arise in terms of identifying the individuals involved.

The issue of racialisation, which the minister touched on in her opening speech, is one of the first areas of complexity. It gives rise to an overwhelming need to emphasise support and training for people who are working in settings where they may have concerns. Many people may have concerns but feel uncertain about how exactly to express them without risking stigmatising people in terms of racial or religious groups. The committee's evidence reflects the balance of views on that difficult point—the need to be conscious of the risk of racialisation in the approach to the issue and the need for that not to become a barrier to taking the necessary action. I am pleased that the committee has taken the time to consider that and has asked the Scottish Government to develop guidance and training. The need for guidance and training is a theme that comes through many aspects of the report.

Elaine Smith talked about asylum seekers and refugees and the report recognises the particular challenges in relation to those groups—the lack of protection available through the asylum system, the failure in the system to recognise that women may have been unable to relocate from one part of

their country of origin to another in order to escape the risk of FGM, and the culture of disbelief. That is clear throughout the asylum system, where applicants for asylum are overwhelmingly treated with an assumption of guilt until innocence is proved, which is the opposite of the way in which it ought to work. When we are talking about an issue that is complex, sensitive and difficult to express, such as the risk of FGM or the experience of having gone through it or having family members who have gone through it, the culture of disbelief in the asylum system must be an insurmountable hurdle for a great many people even to begin to talk about the issues or to know whom they can trust in the system.

**Elaine Smith:** Does Patrick Harvie agree that language can also be an issue?

**Patrick Harvie:** Undoubtedly. The language barrier is one of the biggest reasons why natural justice has so frequently failed in the asylum system, particularly given the issues that need to be talked about in relation to FGM. It is a whole other level of language barrier that many people would not have considered if they were not already closely familiar with the subject.

I was interested to note that a small section of the report mentions that the WHO definition of FGM includes genital piercings. That is a different professional setting, and the people who work in it may not consider that they need to understand or know about FGM as a wider issue, and the definitions in it will be very different. I am sure that we would not want to approach that issue by trying to forbid or ban body modification practices that are undertaken as a choice by empowered adult individuals. However, the ambiguity about the definition gives rise to another level of complexity that may be difficult to pin down in law—the distinction between people who take an empowered and informed decision as adults and people who are under cultural or coercive pressure or an expectation to undergo procedures that are not genuinely of their choice.

Finally, Presiding Officer, all those issues raise again the importance of support and training. I was interested that the committee was open to the idea of renaming the orders “protection and support orders”. I believe that the Government has considered whether it will be willing to look at that as the bill goes forward. The training and support services that we put around the legislation are at least as important as the bill itself. That said, the bill is greatly valued and I hope that it will pass stage 1 unanimously tonight.

16:05

**Alex Cole-Hamilton (Edinburgh Western) (LD):** I start by echoing the thanks that have

already been offered to my fellow members of the Equalities and Human Rights Committee, to the clerks and, most important, to the witnesses, who gave us an education in a very important area. I thank the Scottish Government very much for bringing forward the bill.

On behalf of my parliamentary colleagues, I speak in full-throated support of the bill, which will become an essential piece of legislation. As deputy convener of the Equalities and Human Rights Committee, I know that it was a very important and sensitive topic. There were issues that challenged us and issues that surprised us.

I recognise that the tone of the debate has been one of consensus, and I hope that that will be the case for the entirety of the bill's passage through Parliament, because it should indeed command our consensus at every stage. It is clearly a subject that unites us all.

It is not a bill that will affect many people, and that is to be welcomed—it is a welcome reality. Nevertheless, the fact that we need to have such a debate and such legislation at the end of the second decade of the 21st century is an indictment of how far we still have to go in our global efforts towards modernity and the empowerment of women. Female genital mutilation is a clear manifestation of a patriarchal attempt to control and possess women. It is about men's power over women. The victims of FGM are likely to experience short and long-term physical and psychological harm. Every year, almost 3 million girls and young women are subject to acts of brutality and mutilation in the name of culture and tradition.

I pay tribute to my colleague and former leader, Jo Swinson, who strove throughout her parliamentary career towards the empowerment of women. During the week of the United Nations international day of zero tolerance for FGM this year, Jo revealed new statistics that showed that health boards in some of Scotland's biggest cities, such as Glasgow and Edinburgh, continue to treat women who have experienced FGM.

FGM is not only a cruel and traumatic practice that should be eradicated; it is an indication of a deep-rooted gender inequality that still prevails. I welcome the bill's aim of strengthening effectively the legal protection for women and girls who are at risk of FGM, which is a practice that is already illegal. Early interventions are key. However, they are not always possible, so I fully support the introduction of the new protection orders, which, in the words of Leethen Bartholomew, from the National FGM Centre, give a woman

"the agency and the power not only to take a stance and protect herself but also to protect her child". [*Official Report, Equalities and Human Rights Committee, 7 November 2019; c 7.*]

Protection orders will enable a preventative approach to be taken to avoid harm to a child, or to avoid the child's removal from the UK.

During stage 1 consideration, a parallel was drawn between the creation of risk of sexual harm orders in the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005, and the potential creation of FGM protection orders. That parallel relates to the application of the proposed law, and how often the orders might be used. Although the 2005 act came into force more than 10 years ago, the number of RSHOs that have been handed down or applied for through the courts can be counted on the fingers of one hand. That is a salutary lesson for the bill. For the legislation to be effective and preventative, we need to work together to develop effective guidance on and awareness around FGM protection orders, to ensure that the additional measures are in place for the police, the judiciary and all other stakeholders.

I also worry that, unlike the United Kingdom Parliament's Serious Crime Act 2015, the bill does not include provisions for lifelong anonymity for victims of FGM. I am not persuaded that it is entirely justifiable to exclude such a provision from our bill, and I will perhaps work with others to test that at stage 2, because I do not believe that our justice system is materially different from the justice system in the rest of the UK.

Both Police Scotland and the Equality and Human Rights Commission advocate anonymity in legislation, and they reference the difficulty in evidencing incidents of FGM due to fear of repercussions. Police Scotland stated that anonymity would encourage women and girls to come forward and protect individuals, and that, without the protection of automatic anonymity, there will remain a barrier to such reporting.

**Ruth Maguire:** I hear what Alex Cole-Hamilton is saying about anonymity, and we share some opinions on that. However, anonymity for all victims of all sexual crimes might persuade more women to come forward. Will he reflect on whether the issue is bigger than just this bill and needs to be dealt with elsewhere?

**Alex Cole-Hamilton:** The convener of our committee makes a valid and very reasonable point. I am not wedded to amendment at stage 2. We perhaps need to have a wider discussion about the issue in the context of all sexual crime; I absolutely take Ruth Maguire's intervention in the spirit in which it was offered.

I am glad that the bill is grounded in a rights-based approach, as all our bills should be, and that its policy is firmly rooted in article 24 of the UN Convention on the Rights of the Child, which calls for the prohibition of all traditional practices that

are detrimental to the health and wellbeing of women. I am firmly of the belief that, when we fully incorporate the UNCRC into Scots law, as the Government is prepared to do, we will finally make rights real in that context. In striving to be a human rights leader, we must act now, as we cannot lead the world on children's rights from the back of the pack.

Government, Parliament and community leaders in our society all have a central role to play in the matter, but it is also about public participation in challenging arcane and brutal traditions and abandoning certain attitudes towards the education of girls. As we have heard, there are challenges in respect of terminology, but embarrassment—for whatever reason—should not prevent us from discussing the issue. To make progress, we need to talk about these issues, bring them forward, encourage others to do so, and move forward in the atmosphere of consensus that we have displayed today. We support the bill.

**The Presiding Officer (Ken Macintosh):** We move to the open debate. I encourage members to keep their remarks to five minutes or less.

16:11

**Angela Constance (Almond Valley) (SNP):** I joined the Equalities and Human Rights Committee only in September, and it has been a pleasure to serve on it. Under the quiet, but nonetheless determined, stewardship of the convener, Ruth Maguire, all members come to committee with a deep commitment to a fairer Scotland and a genuine desire to work together. That has been evident in our scrutiny of the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill, which led to the presentation of a unanimous stage 1 report to the Government. I am pleased that the minister's response to the committee has been equally collaborative.

As we know, FGM is illegal, and the purpose of the bill is to update and strengthen protection for women and girls who are at risk of the practice by creating new protection orders and putting guidance on a statutory footing. FGM is a fundamental violation of human rights. It is a manifestation of deep-rooted gender inequality, it is a breach of international law, it causes short and long-term physical and psychological harm, and there are absolutely no health benefits from it.

The bill was widely supported by stakeholders. However, crucially, it was informed by the lived experience of survivors. Earlier, Elaine Smith powerfully quoted the personal testimony of Neneh Bojang. As the minister said in her opening remarks, if the bill prevents just one woman from going through the trauma of FGM, it will have been

worth while. It is crucial that the voices of women and communities are at the very heart of engagement and—in particular—the development of statutory guidance. The experts are those with lived experience, and we need to make an enduring commitment to survivors that participation and engagement are on-going, and not a one-off event. That approach is absolutely essential to minimise the risk of stigmatisation and even racialisation, as expressed by some committee witnesses.

The minister in her evidence to the committee, and the convener in her opening remarks today, rightly stated that FGM has been practised across many countries, and many continents, communities and belief systems, for about 5,000 years, and that it is indeed a global issue.

One of the many complex issues that the committee wrestled with was lifelong automatic anonymity for survivors. There were mixed views about that, and at present in Scotland those matters are decided by the courts on a case-by-case basis. After much thought and deliberation the committee concluded that the views and wishes of individual survivors in individual cases should be paramount and central to court considerations. The minister made a commitment to reflect on that and on other matters and to respond before stage 2.

Based on the evidence that was heard and received by the committee and not on politics, there was an acceptance that the legislation should be different to what exists south of the border. There was cross-party concern about the lack of consistency in the treatment and consideration of FGM within the asylum system leading to a lack of protection for women. Those two points were made by Elaine Smith and Patrick Harvie.

The Equalities and Human Rights Committee has collectively worked very hard to test and tease out the added value of this bill given that FGM is currently illegal, there are existing child protection measures in place and there is a national action plan to prevent and eradicate FGM, along with a very honest reflection that legislation alone is rarely a silver bullet—particularly for crimes that are often hidden. However, when the need to protect women and girls of all ages is considered, the case for this legislation is very well made. It will allow better support to be given to those aged 16 and 17 who are not always captured by the children's hearings system. It will also address the need to build bespoke measures for both protection and support.

I say well done to the minister on what I believe is the first bill that she has lodged in her current role. I thank her team and the committee clerks.

16:16

**Maurice Corry (West Scotland) (Con):** I welcome the introduction of the bill. It is my pleasure to speak in the debate.

Female genital mutilation is a pervasive form of gender-based violence that millions of women and girls in the world face. As we know, it is recognised internationally as a gross infringement of their human rights, and steps must be taken to prevent and eliminate the practice.

In 2011, it was found that around 24,000 individuals who were living in Scotland were born in countries that practise some form of FGM. From 2001 to 2012, 2,750 girls were born in Scotland to women from those communities. Even with that data, it is still not known how many people within those communities are directly affected. FGM is, by its nature, a matter of hidden complexities. That makes it difficult to create a solution that adequately addresses such harms in order to prevent them, and support those who are already impacted.

Current legislation provides a broad range of policy and tools to help support the victims and survivors of FGM. The Prohibition of Female Genital Mutilation (Scotland) Act 2005 increased the maximum penalty to 14 years of imprisonment and changed the terminology from “circumcision” to “mutilation”. That removed any possible justification for the execution of such an act, and the aim was to ensure that the legal protection in Scotland was equal to that of the rest of the UK.

In addition, the national action plan to tackle FGM was implemented in 2016. It introduced measures to train the staff of statutory agencies about FGM, such as how to talk to survivors and how to identify those at imminent risk of FGM and those on which it had already been performed, and it strengthened information sharing about FGM. Those steps have opened up the conversation about FGM and how to tackle it effectively.

This new bill crucially builds upon that existing legislation as a step further in protecting the rights of women and girls by enabling individuals to obtain a female genital mutilation protection order, or FGMPO. Those who are at risk can be provided with a proactive means to protect themselves or their daughters from FGM.

I am totally supportive of the legislative steps forward that this bill makes, but there are areas that require further examination and discussion as the bill advances. The ability to obtain a specific FGMPO is a helpful approach, but we must consider the process behind acquiring the protective order. Because of the nature of the FGMPO within the legal system, access to legal

advice and assistance would be advantageous to ensure an accurate and successful application.

In that regard, there are a number of concerns about barriers that might prevent the people who most need it from acquiring that integral protection. We need to consider how accessible the legal system will be for the women who are most at risk. Given that many such women come from different countries, it is understandable that our legal system might be overwhelming and confusing. Legal aid would provide such women with an invaluable guide to successfully negotiating a system that might be unfamiliar and daunting.

The ability to pay for necessary legal aid is also important. Not all FGMPO applicants will be eligible for legal aid and some women will be simply unable to afford it. No woman or girl should be put at such devastating risk because of a lack of financial resources.

We must take note of those barriers and consider how they can be removed, to ensure that individuals can navigate applications for and acquisition of FGMPOs in a timely manner. Enacting legislation does no good if the law is unable to help those who are most in need.

**Christina McKelvie:** On that point, I intend to write to the UK Government about all those measures. Will Maurice Corry join me in doing so? Some of the issues that he raised relate to how the asylum system will work alongside protection orders. Will he support calls from this Parliament for the devolution of some of that, so that we can deal with it here? Will he also take on board the issue to do with people who have no recourse to public funds, which affects some women?

**Maurice Corry:** I thank the minister and understand what she is saying. We must look at individual cases; not every case is the same. As my colleague Annie Wells just said, we will take up issues that Elaine Smith brought up and we will write to the UK Government. I am sure that, in discussion with Annie, we will look at some of those issues; the minister has made an important point that we will certainly consider.

In addition to eliminating barriers to acquiring a protection order, the question about victims' anonymity must be fully examined. Anonymity is not currently included in the bill, but the subject should be carefully considered and further explored, in relation to how we can most effectively provide support to FGM victims.

Given the hidden and private nature of FGM, the most effective way to identify victims and obtain evidence is through information from victims themselves. Every step must be taken to ensure that women and girls feel comfortable and confident about their ability to report their

experiences and be protected from possible repercussions. Whether that means granting automatic anonymity or providing victims with a clear and assured path of gaining anonymity at their request—an issue that has been talked about—all options must be considered and victims' concerns and wishes must be central to consideration and the decisions that are taken.

The new measures that the bill will introduce have the potential to bring about necessary change. For the change to be as effective as possible, we must consider and eliminate all potential barriers. The measures, when coupled with robust education and training, will do much to demonstrate Scotland's on-going commitment to eliminate FGM practices.

16:22

**Mary Fee (West Scotland) (Lab):** I thank the Scottish Government for introducing the bill for consideration in the Parliament. I also thank the witnesses, including women and girls who are affected by FGM, who assisted the Equalities and Human Rights Committee in its stage 1 inquiry. Without their input, it would be difficult to fully understand the effects of FGM and the harm that it causes. Their evidence was invaluable.

FGM is, rightly, illegal, and consideration must be given to how we can prevent it. That is what the bill aims to achieve. I fully support the aim of strengthening protections for women and girls who are at risk of female genital mutilation.

Female genital mutilation is not limited to a particular race, religion or country. It is believed to have occurred for more than 5,000 years across the world and across religions. During our evidence sessions, committee members were told that the practice has been performed as part of people's adherence to religious or cultural traditions and as a rite of passage.

Female genital mutilation does not benefit women and girls in any way. It leads to lifelong physical and mental health problems. It is a form of abuse and control.

I understand the position of the Government and some witnesses on racial profiling. There must be clear guidance and training to ensure that no person feels stigmatised or criminalised. I welcome the minister's comments, in her opening speech, on how that work will be taken forward.

During evidence sessions on medical services, the committee heard that NHS Lothian applies a policy of universal inquiry. Such an approach is not taken in other parts of the country. To prevent people from feeling targeted because of their race or religion, there must be a universal policy for all

public services that deals with justice and with women's sexual, mental and medical health.

In relation to guidance and training on reaching out to women and girls, there must also be wider training and education. That is backed up by the experts who provided evidence to the committee.

On the subject of education, which is crucially important, I back calls for FGM to be consistently taught in schools, to both boys and girls. Schools now include human rights education. As FGM is a human rights violation, that enables schools to better educate their pupils on the issue. The Scottish Government response to the committee's report says that FGM is covered from S1 and that abuse and being protected from abuse is covered at P5. I wonder whether there is scope for the specific issue of FGM to be covered at an earlier stage, particularly if girls are a target for FGM prior to starting puberty and their teenage years. I accept that there may be concerns around the age and stage of children when discussing the issue of FGM, but I wonder whether the minister could consider that, either in her closing response tonight or at a later stage.

It is very important that men are also taught about the dangers and lifelong consequences of FGM. That is discussed in the stage 1 report, which says:

"The role of boys and men in FGM conversations was also raised by the men at Community InfoSource. Men said they were not aware of FGM happening in their own communities, or their own families, until they attended workshops with Community InfoSource."

It is evident that such workshops are fundamental in the pursuit of eradicating FGM.

I fully support the introduction of the FGM protection orders. They will play an integral part in supporting women and girls and protecting them from FGM, and hopefully in eradicating the practice in Scotland and for those living in Scotland, including asylum seekers. That is a crucial issue for me.

Anne Spiers, the deputy chief executive officer of the Multi-Cultural Family Base, rightly suggested that the word "support" be added to the orders. Support is an integral aspect of tackling FGM and helping victims. It is right that the Scottish Government speaks with stakeholders while considering the recommendation. I hope that it does. However, with or without the term "support" included, the orders will serve the same purpose.

I wanted to touch on anonymity, but we are short of time. I am grateful for the comments that have been made by the minister about the intention to look at that issue and come back to the Equalities and Human Rights Committee prior to stage 2.

Once again, I thank the women and girls who so openly and honestly spoke to us and shared their experiences with us.

16:27

**James Dornan (Glasgow Cathcart) (SNP):** I have a members' business debate tonight on a completely different type of abuse of women—financial coercive control—but female genital mutilation has always struck me as a particularly brutal and extremely harmful type of abuse.

Some religious sects call the practice “sunnah” and refer to FGM as a religious cleansing. However, the practice is strongly condemned in all religions, and in fact the ritual of FGM predates any particular religion.

As Annie Wells said, performing FGM has zero health benefits and is physically and psychologically damaging to women and young girls. Those who have been victims of FGM can suffer a multitude of consequences: infections, including urinary tract infections, menstruation problems, lack of sexual desire, pain during sex, complications in childbirth and, unfortunately on some occasions, even death.

There is no acceptable justification for FGM, and I commend the Equalities and Human Rights Committee, led by my colleague Ruth Maguire, for spearheading efforts to update Scottish action on this intolerable and senseless abuse towards women and girls.

The World Health Organization estimates that more than 200 million women and girls alive today have undergone FGM in one of its many forms. It also estimates that a further 3 million girls are at risk of undergoing female genital mutilation every year.

Although the rates of female genital mutilation in Scotland are unknown, the NHS records, where it can, patients who have undergone it. In 2017 and 2018, NHS Lothian identified women with FGM on at least 93 occasions. In the same period, NHS Greater Glasgow and Clyde identified 138. That is at least 231 women too many.

As FGM is illegal in Scotland, young Scottish girls are often taken abroad on summer holidays, without knowledge of the real reason for their travel. The procedures are usually performed using traditional methods, with no anaesthetics or antiseptics, and often by someone who has no professional medical expertise. Genital mutilation is traumatic. It is often carried out with knives, scissors, glass shards or razor blades. It is normally non-consensual, and I cannot begin to imagine the nightmare that those women and girls endure as they are physically restrained and subjected to torturous procedures.

The Scottish Parliament has an admirable record in this area, as it has been fighting FGM for some time. Indeed, I am proud to say that Scots have been at the forefront of action against this barbaric practice for almost a century. Dr John Arthur, a missionary from Glasgow, campaigned in 1929 to stop the Kikuyu in Kenya from carrying out the practice. He recognised that the senseless suffering that women endured through clitoridectomy had no basis in Christianity and that it should not be tolerated. He encouraged the baptised Kikuyu to urge the Kikuyu Central Association to end the practice. He campaigned vigorously on this matter, to the point that he resigned from the Legislative Council of Kenya and saw his personal reputation being traduced by the British and church authorities because of his passion to protect those women and girls.

At the same time, his fellow missionary, Marion Stevenson from Forfar, introduced the term “sexual mutilation of women”. She also taught Raheli Warigia who, along with other Tumutumu women, formed an organisation called the Shield of Young Girls to protect girls from FGM. The group wrote:

“People are being caught like sheep. One should be allowed to follow her own way of either agreeing to be circumcised or not without being dictated on one's own body.”

I think that we could all agree with that.

Stevenson saw FGM as part of a concerted attack on women's rights and used it as a focal point for her campaign to expand women's rights through measures such as establishing girl's schools, which, among the basic subjects, also taught domestic science and hygiene. She also trained many teachers and worked in hospitals. Her experiences demonstrated to her that, in many cultures, FGM forms part of the fight to curtail women's societal rights.

The bill strengthens the current legislation and delivers on the promises that were made in the Scottish Government's national action plan to prevent and eradicate FGM. Although FGM is a hidden and deeply complicated problem, all of us—the Scottish Government and the rest of us—must be vigilant and play our part in the effort to eradicate it.

It is clear that there is no complacency in the Government's approach to the fight to bring this abuse of women to an end. The bill is an important part of that fight, and that is why I support the general principles of the bill at stage 1.

16:32

**Michelle Ballantyne (South Scotland) (Con):** There is no justification for female genital mutilation. No religion condones it, and there are

no health benefits to it. Its practice is a violent and barbaric assault against women and girls.

During a debate in November 2017, I recounted my first encounter with FGM. I was a student nurse at the time, and the patient was a victim of FGM who had given birth to a daughter. She begged us not to discharge her. Her husband planned to take their child straight to the airport whereupon she would be taken out of the UK, and that perfect little girl would then undergo female genital mutilation. Back then, there was nothing that we could do. We delayed her discharge as long as we could but, eventually, we had to let her go. I had the job of carrying that baby down to the car alongside her distraught mother. It is an experience that I have never forgotten.

In summing up for my party in that debate, I said that I hoped that the cabinet secretary had listened to the comments in the debate and that she would take forward some of the actions to ensure that Scotland followed the UK's decision to enact FGM protection orders. It is, therefore, extremely welcome that this Parliament is now debating stage 1 of this bill, and I personally thank the minister and the cabinet secretary for making good on the promises that were made to take this forward.

The creation of FGM protection orders is an important milestone in the development of legislation to prevent this vile practice. In that respect, Scotland has lagged somewhat behind England, Wales and Northern Ireland, all of which introduced FGM protection orders as part of the Serious Crime Act 2015. That said, concerns have been raised about the need for specific protection orders. It was noted in some consultation responses that FGM protection orders were not the best instrument to counter the issue.

Although I agree with some of the views of the Law Society and the Scottish Children's Reporter Administration that existing legislation covers FGM offences, I think that the right decision has been made to introduce a specific protection order. Such an order not only signals intent, but deals with a very complex and problematic area for society and criminal law and can provide an immediate intervention to prevent a crime.

However, given the impact that such protection orders could have on families, particularly when strong personal relationships and high levels of familial influence are at play, they are not enough on their own and should not be seen as the solution to every instance in which a potential FGM case is reported.

As Ruth Maguire described, the order may provide protection, but it will not address the cultural and family ties that accompany the practice of FGM. A stronger framework and an

increased duty on professionals to report such crimes can only serve to tackle this hidden crime.

The evidence clearly shows that data collection is key. A spokesperson for NHS Greater Glasgow and Clyde admitted this year that it has

"no confirmation FGM is being practiced in Scotland",

and the Scottish Government said:

"There are no clear and robust figures for the prevalence of FGM in Scotland because of the hidden nature of the crime."

However, we know that there are cases, because hospital records demonstrate that.

We can introduce all the legislation that we want, but unless we improve our methods of identifying and reporting suspected instances of the crime of FGM, we will have the same blind spot that was created by the Prohibition of Female Circumcision Act 1985, as a result of which young women came to hospitals with clear signs of mutilation without a single case being successfully prosecuted.

SCRA's view to favour strong statutory guidance for professionals working with young people who are at risk is important. We have seen in England and Wales that although social care and healthcare professionals are obliged to report to the police incidents of FGM involving under-18s, many staff still do not fully understand the implications of the Serious Crime Act 2015 and the duty that it bestows upon them. Without staff taking the first steps, protection orders will do the victims little good.

Although I very much welcome the multi-agency guidance published by the Scottish Government, the onus is still on getting the guidance right as a key step in eradicating FGM in Scotland. Efforts must also be made to ensure that that guidance does not simply gather dust on local authorities' shelves. It must be embedded in the minds of front-line workers who are best placed to identify girls who are at risk, understand the family dynamics and act quickly and effectively to avoid a potential offence.

The need to ensure that witnesses and potential victims will be given anonymity underpins all of those issues. I agree with some comments that such anonymity should be lifelong, because the fear and distress that women and girls experience must not be underestimated. The impact is often compounded when English may not be their first language and where cultural pressures are significant.

I welcome the consensus that I have heard in this chamber. In progressing this bill, we are sending the message that we are not divided on the issue of female genital mutilation. It is cruel



and abhorrent and no society should ever allow it to be carried out.

16:38

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** I warmly welcome the principles of the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill at stage 1, and I am pleased to have the chance to speak in this debate.

Female genital mutilation is physical and coercive abuse of women and girls. There is no other way to describe it. The word “mutilation” says it all. FGM violates the rights of women and girls and has lifelong physical, sexual and mental health implications. It has no health benefits—quite the reverse. It is, of course, illegal and abhorrent.

As we have heard, the aim of the bill is to strengthen legal protection of women and girls by enabling the court to make an FGM protection order—a civil order—to protect a person at risk of being subjected to FGM, which will safeguard them from further harm if FGM has already happened, or reduce the likelihood that FGM offences will happen. A person at risk, a victim, a local authority, Police Scotland, the Lord Advocate or any other person with the permission of the court will be able to make an application for an FGM protection order. Anyone breaching an order would be committing a criminal offence, with a potential prison sentence of up to five years.

FGM has been illegal in Scotland since 1985 but, to date, no criminal prosecution has been brought in Scotland and only one has been brought in England. That says it all about the need for this bill.

The multi-agency guidance on FGM reinforces Scotland’s child protection guidance, but it is currently advisory. The proposed FGM protection orders and statutory guidance will complement that system. Although FGM is an international practice, we have a duty of care to those who live in Scotland, and this bill will give protection to the most vulnerable.

The Law Society of Scotland’s helpful briefing points out that this is not the first step taken by the Scottish Parliament on FGM. It builds on the Prohibition of Female Genital Mutilation (Scotland) Act 2005 and implements Scotland’s commitment in the national action plan to prevent and eradicate FGM, the aim of which is:

“to foster an environment of prevention in Scotland and to improve the welfare and quality of life of FGM survivors, with a focus on the linked areas of prevention, protecting girls at risk; and provision of appropriate support and sensitive services for survivors of FGM.”

There is no doubt that early intervention through communication and education is key to the success of the new bill. In addition, we need reliable data to determine the exact scale of the problem in Scotland. The Scottish Refugee Council published a report in 2014 that estimated that the number of people living in Scotland who have come from countries where FGM is practised is around 24,000, which provides some indication as to the scale of the issue. That number shocked me and it highlights the desperate need to raise awareness of the bill in the relevant cultures and communities. We must overcome language barriers and cultural differences in our public services such as the national health service and the police—who do a fantastic job of being inclusive—so that we can simply say, “No, this is not acceptable.”

I agree with Mary Fee that we must reach girls through the school curriculum as part of our getting it right for every child strategy, and we must regard this as a child protection issue. If we can protect girls at an early age by educating them against the dangers of the practice, issues surrounding older girls and women will be eradicated.

There also needs to be clear guidance on how to report issues with a protection order, and we must win the trust of potential victims in communities most at risk so that they know that they will be protected in Scotland. Anonymity is not specifically provided for in the bill, in contrast to the position for victims in England and Wales. I support the committee’s view in its stage 1 report that we should ensure that

“the views and wishes of victims and survivors are paramount and ... anonymity on request is a reasonable expectation for victims of FGM.”

Given the nature of the abuse, and the sensitivity surrounding it, I think that anonymity should be included.

Access to legal aid for victims is also extremely important, as without that, many vulnerable groups might not feel empowered or will be simply financially unable to proceed with legal action.

I want women and girls to live in a world where they feel safe; one where their rights will not be violated and their future ruined. I believe that the bill, when it passes stage 3, will give women and girls that protection and send out the message that Scotland is a country that values all its citizens and is striving to keep them safe with legal protection and support.

16:43

**Elaine Smith:** We have heard some harrowing stories of women who have been subjected to FGM. The minister opened with a powerful

example, James Dornan gave an example and Ruth Maguire asked us not to doubt those stories, because they are real—that is a very important point. Annie Wells explained what FGM is, which is important to know but hard to listen to.

FGM is a global issue and, as I said earlier, we cannot be complacent about successes in eradicating the practice. As Maurice Corry said, it is clearly a form of sex-based violence against women and girls—a point also made by Rona Mackay.

Today, just as in 2005, there is much to be done to challenge the views that normalise the mutilation of mainly girls under the age of 15. Alex Cole-Hamilton made a point about patriarchal culture. I reiterate the point that other members have made, as it is an important one: there is no religion that actually agrees with, or requires, FGM.

In February this year, in response to a freedom of information request, NHS Greater Glasgow and Clyde and NHS Lothian disclosed that they had treated victims of FGM on more than 230 occasions in 2017-18. Those figures were also mentioned by James Dornan. FGM can be difficult to deal with. For example, when women have to be cut open to deliver babies and then ask to be resealed, because that is all that they have known, that presents a real challenge for people working in our health service and it is something that we have to bear in mind.

FGM is now illegal in all European Union member countries, but the number of successful prosecutions is still relatively low, with the exception of in France. The threat of imprisonment and large fines alone is not enough as a prevention strategy. The evidence from France also highlights how intrusive and stigmatising prevention strategies can sometimes be. We have to be very careful.

In Scotland, we must refocus our efforts to work with families, communities and community leaders to deliver the necessary information, including on the benefits of abandoning the barbaric practice of FGM. I think that the bill will very much help to do that.

I welcome the multi-agency approach of the new legislation and note Mary Fee's pleas for education in schools and a consistent approach across services. The convener of the Equalities and Human Rights Committee, Ruth Maguire, made the important point that, when we identify communities in which the practice is still prevalent, we must not racialise the issue or victimise people who are already victims themselves. That is especially relevant when we look at how enablers of FGM or people who do not report it are treated. Often, they are women who do not have the power

or the ability to prevent it, so they should not be criminalised.

We have to give people the confidence to discuss, challenge and report the practice, which can be deeply embedded in their traditions. That is what the Equal Opportunities Committee did in 2005. That raises the issue of anonymity, which Mary Fee and Rona Mackay spent some time talking about.

We have to give people support to use the law to protect themselves or someone else who is at risk of FGM. I was very pleased to hear Annie Wells say in response to my intervention on asylum seekers that she would write to the Westminster Government. Patrick Harvie, Mary Fee and Angela Constance also outlined issues relating to the asylum system that need to be dealt with and challenged, including the language barrier.

We must ensure that there are adequate funds to train professionals to apply for protection orders when they are needed. I note that support should also be included—many members have made that point. Michelle Ballantyne gave a powerful personal example of the need for that in her speech.

I welcome the more consistent multi-agency response, but I see service after service stretched to its limits. That can make it difficult for the health service to provide the services that are needed. Many services are underfunded and understaffed, and we can add to those burdens. Therefore, we have to add to their funding and their allocation to back up the strategy.

Sadly, we can expect only more austerity from Boris Johnson's Government at Westminster. However, many of the services that will be involved in the prevention strategy are funded by local government. Therefore, I urge the Scottish Government to stop the underfunding of councils in Scotland.

I do not want to finish on a negative note. I think that this debate unites us all—other members have said that—and I know that the minister cares passionately about tackling violence against women and girls. The bill is a small but important piece of legislation that will enhance the previous good work. I congratulate Christina McKelvie on her first bill.

In 2005, our legislation in Scotland was better than the Westminster legislation—I simply throw that into the mix.

I thank the Equalities and Human Rights Committee for its work in scrutinising the bill at stage 1 and, like Mary Fee, I thank the women and girls who gave evidence. By working together and respecting and listening to the communities

involved, I am sure that we will move forward towards the eradication of FGM in Scotland and abroad.

16:48

**Miles Briggs (Lothian) (Con):** I am pleased to close the debate for the Scottish Conservatives. We have had a useful, constructive and positive debate, and I thank the organisations that provided briefings for members, including the Law Society of Scotland. I am also grateful to colleagues on the Parliament's Equalities and Human Rights Committee, from whom we have heard, for producing such a thorough and thoughtful stage 1 report. We should also put on record our praise for the charities that work on the front line, including Shakti Women's Aid and the Scottish Refugee Council.

As my colleague Annie Wells indicated, the Scottish Conservatives very much support the aims of the bill, and we will look to strengthen it as it moves through the parliamentary stages. We will back measures to put in place legal and criminal justice systems that are designed to support victims as effectively as possible and to punish and deter those who perpetrate these abhorrent practices. FGM protection orders are therefore a major and welcome step forward.

Last year, I met prominent women's rights campaigner Nice Nailantei Leng'ete, who was presented with the People's Postcode Lottery hero award in recognition of her work to end FGM in Kenya. The Amref Health Africa UK support charity oversaw work involving four years of dialogue with elders in Nice's village to change hundreds of years of culture and abandon the cutting of girls in Africa. One of the things that Amref saw was a surge in the number of girls attending school after that happened.

Much of today's debate has rightly focused on how we improve the bill and the committee's constructive recommendations for that. As Maurice Corry said, we believe that further work on the bill is required. We have heard that from a number of members today.

We back calls for the Scottish Government to set out clearly how it will engage with and involve women and communities to develop further guidance on and awareness of the FGM protection orders. The committee specifically asks ministers to address difficulties around prosecutions in light of the fact that there has only ever been one prosecution for FGM in the UK. That is important.

Although reasons for the lack of prosecutions are varied—and include, not least, the difficulty of challenging family members and the mistaken beliefs of some professionals—we should look to

move forward on prosecutions. It would be useful to look at that in more detail at stage 2.

I agree with Police Scotland that the Scottish Government should give thought to closing a potential gap in the legislation to cover what happens when someone is found to have items in their possession that suggest an intent to carry out FGM. We need to take that forward, and there might be merit in considering a preventative provision around intent and the possession of items for the purpose of FGM. I welcome what the minister had to say on that, and the fact that she will consider it at stage 2.

I welcome the provisions of the bill, especially those on the creation of FGM protection orders, which have the potential to be a useful tool for our agencies and individuals in implementing the FGM guidance at the statutory level. Communities and professionals must be closely involved in the creation of the guidance, and we hope that the legislation will play a part in helping to achieve the societal, cultural and attitudinal change necessary to eliminate FGM in Scotland, and to send a message on that across the world.

I will conclude with the words that Nice used at the People's Postcode Lottery event. She said:

"The practice is devastating for the health, rights and chances of young girls, and we won't stop until every girl in Africa can become the woman of her dreams."

As members from across the chamber have said today, if the proposed legislation results in just one individual in Scotland not facing the barbaric practice of FGM, it will have been worth while. We support the general principles of the bill.

16:53

**Christina McKelvie:** I am pleased to be closing this stage 1 debate on the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill. It has been an excellent debate and some fantastic points have been raised. I will try to get through lots of those points, but if I do not get to them all today, they are all on my list so members should not worry.

Mary Fee talked about how we change the culture when we work with men and boys, which is an important point. I will send her some information on the change makers project that we fund, which involves men working with men and boys to combat FGM in communities.

James Dornan raised the issue of summer holidays. Part of the FGM protection order will involve the removal of travel documents such as passports so that that summer holiday does not happen.

Michelle Ballantyne suggested that the Scottish Government is lagging behind the rest of the UK.

Perhaps that is right in relation to bringing legislation forward, but we know that there are challenges for the UK legislation, and we wanted to take our time to work with communities and consult people appropriately to get our legislation right the first time because unintended consequences could be incredibly harmful.

Ruth Maguire, Patrick Harvie, Mary Fee and many others raised the issue of racialisation, which came out at committee. I reassure all members that we will work closely with stakeholders and others to ensure that the training is cognisant of that issue. We will be guided by communities on the best way to reflect that in the development of the guidance and the subsequent training. Angela Constance asked that I commit to on-going participation, so that this is not just a one-off. I reassure her that my answer is a very clear yes.

On guidance and training, Alex Cole-Hamilton, Angela Constance and Ruth Maguire all talked about the need for a person-centred approach. I cannot emphasise enough that we will work with stakeholders to assist with the effective operation of future statutory guidance on FGM, and we will take into account the digital stories that Ruth Maguire spoke about to ensure that the core training adequately reflects the position on FGM for which the updated legislation provides.

Elaine Smith made comments about the health experience in Scotland and England. We have taken great interest in that issue, and we are progressing work on it. We will work closely with our health colleagues when we develop the guidance and the training to ensure that we get those absolutely right.

Patrick Harvie talked about the importance of lived experience. That is at the heart of everything that we do. I also hear Mary Fee's calls for a universal approach.

Rona Mackay, Alex Cole-Hamilton and others talked about the need to raise awareness. In the national action plan, we are committed to raising awareness of FGM and the harms that it causes. Specifically, we want to ensure that statutory services work with partner agencies and community organisations to raise awareness of the rights of women and children to be free from FGM. Today, I commit to working intensively with community-based stakeholders to ensure that they are aware of protection orders and understand how to obtain them.

Annie Wells, Maurice Corry, Alex Cole-Hamilton and others raised the issue of anonymity. We have noted the committee's view on that important subject, and we will respond more fully before stage 2. We note that the committee has not recommended automatic lifelong anonymity, as

Angela Constance said. The justice system in Scotland is based on justice being open and accessible, and that includes the ability to provide anonymity if the circumstances justify it. If a child is involved, there are other statutory provisions that we can use.

Ruth Maguire, Patrick Harvie and Angela Constance raised the issue of asylum seekers and FGM protection orders, and Elaine Smith made several interventions on the subject. I will write to the UK Government on that important matter. Members will have heard what I said on that in my intervention on Maurice Corry, and I hope that that reassures them.

Legal aid is another big issue that many members, including Annie Wells and Rona Mackay, brought up. In the majority of cases in which an FGM protection order is sought, the order will be sought by a public authority, so there will not be a need for legal aid. However, if the individual who seeks an order is a child, legal aid will be available. Eligibility for legal aid would normally be subject to means testing of the parents' income, but only when it would not be "unjust and inequitable" for that to happen. It is worth noting that the 2018 independent strategic review of legal aid, "Rethinking Legal Aid", highlighted that Scotland's current legal aid spend per head is the third highest in the European Union. Given that FGM protection orders would often, if not always, involve consideration of restrictions on parents, we think it highly likely that such means testing would always be unjust and inequitable. In those circumstances, legal aid would be granted. We will continue to engage with the Scottish Legal Aid Board and others to ensure that such issues are taken into account when the bill is implemented.

Another issue that was raised was that of data collection and recording. In July 2014, the chief medical officer and the chief nursing officer issued a letter to help healthcare professionals in the NHS to recognise FGM, to identify the services that are most likely to come across the condition and to record the diagnosis and types of FGM in clinical letters. We are working with the FGM national action plan implementation group to ensure greater consistency with regard to data collection policies on FGM across different NHS boards.

Miles Briggs mentioned an issue that Police Scotland raised in its evidence to the Equalities and Human Rights Committee. It might be helpful to note that the circumstances that were set out by Police Scotland would be covered by the bill. If a type 3 FGM protection order was granted, it could prohibit persons with an intention to cut from possessing items that could be used to perform FGM and would make possession of such items a

criminal offence. I hope that that will reassure Police Scotland.

Michelle Ballantyne gave us a clear picture of what happens when a woman is subjected to FGM.

I want to conclude by paying tribute to a very special young activist, Neneh Bojang, who lives not that far from the Parliament. She underwent FGM at the age of nine and, like Waris Dirie, she is an activist against the practice. I was privileged to launch the bill with her. That is an example of us putting lived experience at the heart of what we are doing, which I mentioned earlier.

I congratulate Elaine Smith on her long-term commitment to addressing FGM. The first time I heard the subject being debated was when she spoke about it, probably in 2005.

Neneh Bojang said:

"If this Bill prevents even just one woman from going through the same, then in my eyes, it will be a success."

If that is the case, it will be a success in our eyes, too.

Once again, I commend the general principles of the bill to Parliament.

## Business Motion

17:00

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of business motion S5M-20241, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out a business programme.

*Motion moved,*

That the Parliament agrees—

(a) the following programme of business—

Tuesday 7 January 2020

2.00 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Topical Questions (if selected)

*followed by* Local Government and Communities Committee Debate: Empty Homes in Scotland

*followed by* Committee Announcements

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Wednesday 8 January 2020

1.15 pm Parliamentary Bureau Motions

1.15 pm Members' Business

2.00 pm Portfolio Questions:  
Social Security and Older People;  
Finance, Economy and Fair Work

*followed by* Scottish Government Debate: Improving the Lives of Gypsy/Travellers

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 9 January 2020

11.40 am Parliamentary Bureau Motions

11.40 am General Questions

12.00 pm First Minister's Questions

*followed by* Members' Business

2.30 pm Parliamentary Bureau Motions

2.30 pm Portfolio Questions:  
Environment, Climate Change and Land Reform

*followed by* Stage 1 Debate: Scottish Biometrics Commissioner Bill

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

Tuesday 14 January 2020

2.00 pm Time for Reflection  
*followed by* Parliamentary Bureau Motions  
*followed by* Topical Questions (if selected)  
*followed by* Scottish Government Business  
*followed by* Committee Announcements  
*followed by* Business Motions  
*followed by* Parliamentary Bureau Motions  
 5.00 pm Decision Time  
*followed by* Members' Business

Wednesday 15 January 2020

2.00 pm Parliamentary Bureau Motions  
 2.00 pm Portfolio Questions:  
 Rural Economy; Transport,  
 Infrastructure and Connectivity  
*followed by* Scottish Government Business  
*followed by* Business Motions  
*followed by* Parliamentary Bureau Motions  
 5.00 pm Decision Time  
*followed by* Members' Business

Thursday 16 January 2020

11.40 am Parliamentary Bureau Motions  
 11.40 am General Questions  
 12.00 pm First Minister's Questions  
*followed by* Members' Business  
 2.30 pm Parliamentary Bureau Motions  
 2.30 pm Portfolio Questions:  
 Justice and the Law Officers  
*followed by* Stage 1 Debate: Disclosure (Scotland)  
 Bill  
*followed by* Parliamentary Bureau Motions  
 5.00 pm Decision Time

(b) that, for the purposes of Portfolio Questions in the week beginning 6 January 2020, in rule 13.7.3, after the word "except" the words "to the extent to which the Presiding Officer considers that the questions are on the same or similar subject matter or" are inserted.—[*Graeme Dey*]

*Motion agreed to.*

## Decision Time

17:00

**The Presiding Officer (Ken Macintosh):** There is one question to be put today. The question is, that motion S5M-20223, in the name of Christina McKelvie, on the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill, be agreed to.

*Motion agreed to,*

That the Parliament agrees to the general principles of the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill.

## Financial Abuse

**The Deputy Presiding Officer (Christine Grahame):** The final item of business is a members' business debate on motion S5M-18859, in the name of James Dornan, on financial abuse to be recognised fully as coercive and controlling behaviour. The debate will be concluded without any question being put.

### *Motion debated,*

That the Parliament recognises that the Domestic Abuse (Scotland) Act 2018, which covers coercive and controlling behaviour, makes not just physical abuse, but psychological abuse, emotional trauma and controlling behaviour a crime; welcomes this new law and the benefits that it will have for people who have been subject to domestic abuse, including those in the Glasgow Cathcart constituency; however, understands that independent researchers, along with several anti-abuse campaigners and third sector organisations, are calling for financial abuse to be fully recognised as controlling and coercive behaviour; notes calls for financial institutions to use best practice rules when it comes to their dealings with particularly vulnerable women who have suffered financial abuse, and for others to review their handling procedures of financial matters when it comes to domestic abuse, and further notes calls for Police Scotland to take account of financial abuse when investigating crimes committed under the Act.

17:02

**James Dornan (Glasgow Cathcart) (SNP):** I start by thanking everybody who signed my motion, and I thank members who have stayed for the debate.

Financial abuse is an aspect of coercive control. It is a pattern of controlling, threatening and degrading behaviour that restricts the victim's freedom. It is important to understand that financial abuse seldom happens in isolation; in most cases, perpetrators use other abusive behaviours to threaten the victim and reinforce financial abuse.

Here are a few facts about financial abuse. A person is five times more likely to be experiencing physical abuse if they are experiencing financial abuse. The risk of domestic homicide is greater for victims of financial abuse. Lack of money and financial resources is the main reason why women return to abusive partners post-separation, and economic barriers and lack of financial independence are the main factors in women staying in abusive relationships.

Two months ago, I held a round-table discussion on the impact of financial abuse of women. In all the work that I have done in partnership with women's charities, that meeting was probably the most eye-opening on how deeply rooted and systemic coercive control of women can be.

Presiding Officer, I had a fantastic speech prepared for tonight's debate, but having read a briefing that I had requested from the Daisy Project, I think that there is no point in my telling you my view on the issue. It is better that you hear the words of the women who have been going through financial abuse. Here is an explanation of it by the Daisy Project, which is a women's support charity in my constituency:

"This is a type of abuse which in our experience includes identity theft, having money or other property stolen, being defrauded, being put under pressure in relation to money or other property and having money or other property misused or withheld.

Financial Abuse is often viewed as an unacceptable but an inevitable reality for the women we support. Societally there has been a very high tolerance of women being left to cope with enormous financial pressures both during the relationship and after they leave, in particular when they are bringing up their children.

A primary focus of our work is often risk assessment, safety planning and supporting women to rebuild their lives safely. Unfortunately this has led financial abuse to be identified but rarely addressed by any agencies. We are working with women and in discussion with the police to explore the best way to address this persistent, long term form of abuse and control over women. Women report to us that it massively impacts on their quality of life, freedom of choice and leads to them feel degraded, distressed and hopeless.

It is recognised that perpetrators of this type of abuse are often well versed in avoiding detection and being brought to justice and that a major aspect of their technique is in relying on other agencies such as police, social work, DWP and court processes to further the abuse.

Following the round table discussion 6 women from DAISY met to explore and document some of the ways that perpetrators have used financial abuse to their detriment. Some of the tactics used are clearly criminal however others are less clear. Women were certain that the overall impact on their lives, in the long term, was devastating.

It was found that:

In each case the financial abuse has continued long after the relationship ended. One woman shared that the perpetrator would 'lend' her money to pay for family grocery shopping and that she was always in debt to him for providing essential household items ... the perpetrator often took control of all the finances and was always aware of her salary, payment date etc. It was common for the perpetrators to be the main claimant on benefit claims, car finance and mortgages. It was agreed that this was so subtle to begin with, that it took a long time for women to realise what was happening. ... Women reported money for holidays, family funerals and even children's savings being squandered and misused for the perpetrator's own enjoyment. ... perpetrators obtained details of internet banking passwords, credit cards, bank accounts and used them fraudulently during the relationship and after it had ended. One woman discovered 14 online credit accounts in her name, once the relationship ended. She is still paying them off 6 years later. ... In most cases Child Maintenance was not paid appropriately and in several cases, arrears were written off meaning a loss of thousands of pounds for some women. ... Perpetrators often had access to full legal aid or would represent themselves and use the court process to incur extortionate costs for the women to defend

(many of whom work and only have access to partial legal aid).”

One of the very concerning failings that came to light at the meeting was that very often agencies enable a perpetrator to further the abuse when he abdicates all responsibility for the debt he has built up.

**Linda Fabiani (East Kilbride) (SNP):** I wonder whether James Dornan, or any other member, has had constituents come to them with an issue that I have heard about, which is that even after a case has been to court and domestic abuse been proven, a woman who has a joint bank account has had to go to the bank with her partner, former partner or husband to close the account. The damage that that can cause psychologically is immense.

**James Dornan:** I could not agree more with my colleague. That situation just highlights the problems that we have when dealing with organisations and agencies. In many cases, they are looking to stick to the rules, or are looking for the easy way out to get the money.

Women have said:

“He ran up Council Tax arrears when he was in control of the finances and the council have now allocated the whole amount to me, as it is my address”.

“Income Support Loans which were taken by him but tied to both insurance numbers in a joint claim have now been allocated to me. DWP have allocated it all to me because it was a joint claim. They have transferred all the loan to me as he is no longer on benefits”.

Court systems are used to further the abuse:

“He refused to sign the paperwork for 1 year. He deliberately did this knowing I would be stuck in limbo and that this was putting me under financial pressure”.

Another man signed up to a trust deed for £30,000 but does not pay for it; it is in the woman’s name.

I could go on and on, but I shall finish with a case study that encompasses many of the issues that women face when they are trying to overcome coercive control.

Sarah was married outside the UK to a British husband. He decided to go back to the UK, do her visa paperwork and call her to the UK, where they would settle and raise a family. She had a new baby when her visa came through, but the visa was for her only. The perpetrator convinced her to come over and leave the new baby with her mum for a few weeks until her daughter’s paperwork was completed, as otherwise her visa would expire. Sarah’s husband separated her from her child for four years. She had no money to fly back home and get her daughter or to pay to apply to bring her daughter to the UK.

Once her daughter was in the UK, she was given no money to buy toys or clothes for her

child. For five years she had the same clothes that she came into the UK with, and she was given no money for winter jackets or appropriate clothing to deal with Scottish weather. Sarah had never seen Glasgow city centre because she was always kept in the house and had no money to travel. She had never gone to dinner or to the cinema and was not allowed to shop alone at any supermarkets. She had no bank account and all the child benefit was paid to her husband.

Unfortunately for Sarah, when social workers got involved in her case due to issues around care of her child, they did not see any of the coercive control or financial abuse that she was suffering. She was seen as an unfit mum for not providing adequately for her child.

There were warning signs. Why did Sarah not have a bank account? She did not know the way to her child’s school, which was a clear sign of severe isolation. She often had no jacket, or had summer shoes on in winter, when she went to social work meetings. Why did she take four years to bring her child to the UK? Again, no financial abuse was detected, and she was classed as an unfit and uncaring mother.

The powerful words of the women—many of whom I know and am close to—show that despite on-going good work by the Scottish Government and the prosecutorial services, there is much, much more to be done.

For the sake of those women and many more, it is time that society recognised just how damaging financial coercive control can be for the brave women and children who are innocent victims of uncaring men.

17:10

**Margaret Mitchell (Central Scotland) (Con):** I congratulate James Dornan on bringing this important and timely debate to the chamber. Domestic abuse manifests itself in many forms, and not all victims and survivors of domestic abuse bear physical wounds and scars from that abuse.

Today’s motion recognises that the Domestic Abuse (Scotland) Act 2018 criminalises coercive and controlling behaviour. Although it is not tangible, such behaviour nonetheless follows patterns that can result in deep emotional and psychological scars that persist long after the physical ones have healed.

The motion focuses on financial abuse as a largely invisible and particularly insidious aspect of domestic abuse, in which the abuser uses financial dependency to control the victim’s life. The motion notes the calls for financial institutions to use best-practice rules in their dealings with



vulnerable women who have suffered financial abuse.

I want to raise awareness about—and congratulate the bank—the Royal Bank of Scotland’s initiative to partner with the UK charity SafeLives, which is dedicated to eradicating domestic abuse completely. Through that initiative, the charity will consult on RBS policies, procedures and services to ensure that the bank is providing the best possible support to people who are affected by financial abuse. Working with the charity Surviving Economic Abuse, SafeLives has created a bespoke training package for specialist teams in RBS. The training teaches staff how to spot financial abuse and to provide appropriate help, both of which are challenging yet crucial aspects. In addition, RBS has appointed a financial abuse specialist in its customer protection team, who is available for appointments and who supports customers on an individual basis in order to understand fully their situation and the support that they need.

That partnership has allowed RBS to build on its existing support services with practical measures, including provision of new and secure cards and personal identification numbers, online banking and mobile app access, and the ability to open a new account with a different national sort code.

In recognition of the fact that reporting financial abuse can be—to say the least—challenging, the bank will develop a specific online form that will allow customers to contact the bank on their own terms. It also offers secure video banking appointments with specialist bank staff, in order to facilitate face-to-face conversations and discussions about available options.

The RBS initiative provides a model that other financial institutions could copy, in a concerted effort to attack the invisible and hidden financial abuse that can have such a devastating impact.

Traditionally, reports of domestic abuse tend to increase over the festive period. Most people also have additional financial pressures, which add to the vulnerability of those who are subject to financial abuse. Therefore, I hope that more financial institutions will take similar positive steps to the ones that I have outlined, in order to identify and tackle financial abuse.

I thank James Dornan again for providing the opportunity, especially at this time of year, to raise awareness of this controlling and coercive abuse.

17:15

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** I thank my colleague James Dornan for bringing this important debate to the chamber. It is right that we highlight this all-too-common form of

abuse. The days of recognising domestic abuse as bruises and cuts are over, although physical abuse is still happening at horrific levels. We now know that abuse takes many forms and the new Domestic Abuse (Scotland) Act 2018, which for the first time recognises coercive abuse, makes it illegal to carry out a pattern of behaviour that damages the mental wellbeing of—primarily—women.

What is financial abuse? It is about power and control and about withholding finances to curb the liberty of a partner, to disrespect them, to humiliate them and, essentially, to deprive them of their human right to exist without permission. I remember that when I was in my teens my mum told me of her shock when a friend from a well-off background asked her for money to buy a pair of tights because her husband would not give her any money to buy some. My mum was horrified and so was I, but at the time I did not recognise it as coercive control or financial abuse; I just realised that it was a horrendous way for one human being to treat another.

Women’s Aid’s “The Domestic Abuse Report 2019: The Economics of Abuse” revealed that nearly a third of domestic abuse survivors said that their access to money during the relationship was controlled by the perpetrator and a quarter of respondents said that their partner did not let them have money for essentials during the relationship. That poses an increased risk for the survivor. Economic barriers to leaving can result in women staying with abusive men for longer and experiencing greater danger, injuries and even homicide as a result.

Of course, financial abuse impacts heavily on children. One of the most basic parental instincts is to provide for your child, to make them happy and give them what they need. By depriving women of money, or control of money, perpetrators are also, therefore, abusing their children. They are denying their partner the right to provide for the children, which can psychologically damage the relationship between mother and child and coerce the child into thinking that the father cares more for them if he buys them things. That is a horrible way to behave at any time, but at this time of year, just before Christmas, the pressure and pain leading to feelings of guilt must be even worse.

Financial abuse takes many forms. It may be fraud, obtaining power of attorney by coercion—elder financial abuse is sadly all too common—non-payment of bills without disclosing that to the partner, withholding child maintenance payments or racking up huge debts without thought for the damage it will do to the family. All those things make life intolerable for the victims.

Our wonderful third sector organisations such as Women's Aid and Relate, and many business organisations and even banks, as Margaret Mitchell outlined, offer advice and support on how people can deal with and protect themselves from financial abuse. However, Linda Fabiani's point about women having to go to the bank to close the account was an excellent one, and something that the banks should take on board.

The message from today's debate should be for people to recognise when they are being financially abused, to seek help and support from the many organisations out there and to know that they are not alone. We should all call out this despicable controlling behaviour at every opportunity and continue to raise public awareness.

17:18

**James Kelly (Glasgow) (Lab):** I congratulate James Dornan on securing this important debate and recognise the important contributions that we have heard from members. The debate brings an important issue to the chamber and reveals some of the difficult and unacceptable circumstances in which women have to live as a result of financial abuse.

As the motion notes, the Domestic Abuse (Scotland) Act 2018 plays an important role in bringing to justice people who commit such scandalous acts of domestic abuse against women in Scotland. The 2018 act goes further than addressing physical abuse and makes controlling behaviour that causes women to suffer emotional or psychological trauma a crime. That is important, because that is how some men in relationships behave towards women. It is right for that to be captured in law and for people to be brought to justice as a result. This debate focuses on widening the issue to cover financial abuse. In some relationships, men—mainly—use their position and their finances to deny women access to finance and to make their lives a misery as a result.

A constituent in Glasgow has been in touch to demonstrate the issue. She was married, but the home was not owned jointly; the man kept it owned singly. He earned £150,000 a year, but he did not give his wife any proper access to cash, so she required to fund groceries, clothes for her children and half of the household items through either money that he chose to hand down to her—pocket money, if you like—or savings. Eventually, the woman left the relationship, but she has had great difficulty in seeking appropriate compensation through the courts. She has endured paying £55,000 in legal fees in trying to take her case through the courts. The case highlights the point that courts in Scotland can

award only three years' financial compensation post-divorce. This debate and the case in my example highlight a number of important issues.

The provisions in the Domestic Abuse (Scotland) Act 2018 must be explored as fully as possible to ensure that financial abuse is covered and that people who commit it are captured under the act. Police Scotland should undertake the appropriate work to do that.

Other members have made important points about banks and financial institutions. Linda Fabiani gave the example of people having to go to the bank together to resolve the signature issue, which is totally unacceptable.

James Dornan has secured an important debate. It has identified that there are perhaps some gaps in the law, but there are also actions that financial institutions and Police Scotland can take. I will be interested to hear the minister's response to those points.

17:22

**Gillian Martin (Aberdeenshire East) (SNP):** I congratulate James Dornan on securing a really important debate on an often unseen issue, and I thank him for giving us the opportunity to talk about it.

Financial abuse affects some of the most vulnerable and isolated victims of domestic abuse in Scotland. For many victims, such abuse acts as a physical barrier to leaving their abuser, as many members have said. Financial abuse can leave victims with no money for basic essentials such as food and clothing. It can leave them without access to their own bank accounts. They might be earning their own salary but not have access to it. They might not even have access to a mobile phone and could be cut off from their families and friends, with the account being paid for and controlled by their abusive partner. If victims have no independent access to income and if abusive partners build up debts or commit fraud, often in the victim's name, that can leave a lasting negative legacy, even once a relationship has ended.

Even when a survivor has left the home, financial control can still be exerted by the abuser, perhaps in relation to child maintenance or by putting them under financial strain through protracted legal disputes. A couple of constituents have come to me who have been beyond access to legal aid—they have jobs so, on paper, they are earning a salary—but they are battling with an abusive controlling partner, who has been able to throw considerable amounts of their wealth at solicitors. That extends their control, in relation to things such as custody, access and the sharing of

assets, beyond the point at which the woman has walked out the door.

I will mention an issue that I was told about back in 2014 when I first started campaigning for access to period products for women who did not have enough money to buy them; I did that under women for independence before I was elected. I went into the Cyrenians in Aberdeen to do a wee bit more research, and I was completely and utterly gobsmacked by a discussion that I had with the domestic abuse officer. They told me that the issue affected not just those in poverty, but those in abusive relationships. Many women shared their experience of having money withheld from them, which meant that they could not get access to sanitary products. One woman who I spoke to, who was the victim of financial abuse, told me how controlling, threatening and degrading behaviour had left her vulnerable and isolated, because, without access to money to get the most basic of period products, she could not even leave the house. As such, her actual movement was controlled for a week every month.

Scotland is leading the world in tackling gender inequality and reducing the stigma of periods by increasing the availability of free period products, which I have long argued should not be based on income. I have heard horrific stories of how women could be physically punished if they bought themselves any kind of personal items, and how they might be given small amounts of money if they behaved in a certain way or agreed to do certain sexual acts as payment for having sanitary products.

Personally, I think that we could do more to give abused women access to legal aid. Financial control can be exerted even if a woman has her own salary. If the man is particularly aggressive and in a vengeful frame of mind, and has access to significant funds, he could drive a woman into penury by having her undergo legal processes over assets and access to children. Before I sit down, I must welcome the fact that the legal profession and the judiciary are looking at better training for sheriffs in relation to understanding those issues as they make judgments, particularly around things such as custody and the division of assets.

17:27

**Maurice Corry (West Scotland) (Con):** I, too, thank James Dornan for bringing this important members' business debate to the chamber this evening. An enduring misconception that we see today is that domestic abuse implies only physical abuse—we know that that is not the case. Domestic abuse spans physical, sexual, verbal and psychological abuse, as well as what we are here to discuss today, which is financial abuse.

It can happen to anyone—often in the subtlest ways, which are frequently undetectable by those on the outside. Indeed, we need to remember that wider domestic abuse affects a range of people, ages and ethnic groups. When it comes to domestic abuse, there are strong and complex links between physical health, wellbeing and financial security. A threat to any of those tends to be a threat to all.

Financial or economic abuse can encompass many things, but at its root is the misuse of money. For example, perpetrators can gamble away family finances, use victims' credit cards against them, or commit to financial contracts in their name. It can mean limited opportunities when it comes to education or employment, or restricted access to essentials such as food, clothing and transport. For example, one survey that was conducted by Women's Aid showed that more than 70 per cent of respondents were forced to live without essentials.

The coercive nature of financial abuse is evident. By definition, coercive control is a pattern of controlling, demeaning and threatening behaviour that confines a victim's freedom. The consequences of financial or economic abuse are far reaching, and, for many victims, seemingly insurmountable. First, there are practical consequences. Women can be left with sizeable debts in their own name, accrued by their partners. As has been mentioned already, they might be left without access to their own bank accounts or any option of an independent income. Many still have to worry about the practicalities of child maintenance, even after leaving their partners.

However, the impact of such abuse also takes a deeper, more emotional toll. For instance, I have read personal accounts that detail feelings of isolation and fear. For many women, limited access to their finances can stop them from leaving their abuser, if they feel that they are left with no choice, which leads to an increased risk of continued abuse. Many feel that they are unable to rebuild their lives in the face of financial instability—in effect, removing their independence.

The Domestic Abuse (Scotland) Act 2018 seeks to address the gap in our law whereby psychological abuse in a relationship was previously not taken into account as an offence. By including it as a new offence under this act, Parliament has rightly recognised that domestic abuse cases should not centre only on one single incident of threatening behaviour or physical abuse. Rather, the criminal offence should reflect the course of conduct over time—encapsulating both physical and psychological abuse.

The sobering evidence that was included in the Justice Committee's stage 1 report highlighted

how financial abuse is most definitely part of psychological abuse. Testimonies spoke of victims who were forced into economic dependence on the perpetrator. By criminalising the coercive and controlling behaviour of offenders, the act has established a single offence that covers psychological, sexual and financial abuse and carries a maximum sentence of 14 years.

However, I understand the desire and need for further clarity surrounding the inclusion of financial abuse in the act's formal definition. It is important to be as clear as possible, to ensure that protections against financial abuse are reflected not only in our legislation but in our responses to and understanding of this form of abuse. It is vital that we do all that we can as a Parliament to ensure that the coercive nature of financial abuse should not be minimised in any way.

17:30

**The Minister for Community Safety (Ash Denham):** I begin as others have done this evening by congratulating James Dornan on securing this debate on an important subject. His speech drew out the link between financial abuse and violence and it illustrated very well how serious the issue is.

Last year, the Parliament came together to pass groundbreaking new domestic abuse laws, including the creation of a new offence that covers not only physical abuse but forms of psychological abuse and coercive and controlling behaviour that were previously very difficult to prosecute. Financial abuse, be that by controlling a partner's access to money, running up debts in their name or preventing them from being able to earn money—many of the things that we have heard about in members' speeches this evening—is one of the many forms that domestic abuse can take. Last year, the Parliament passed the Domestic Abuse (Scotland) Act 2018 last year, which makes it easier to prosecute those non-physical types of domestic abuse.

It may be helpful if I explain how the new offence can be used to prosecute financial abuse. One of the ways in which the new offence extends the ability of the criminal justice system to respond to domestic abuse is by explicitly providing that abusers who engage in a course of abusive behaviour that makes their partner or ex-partner dependent on or subordinate to them, that deprives them of or restricts their freedom of action, or that regulates or monitors their victim's day-to-day activities, where a reasonable person would think that the behaviour is likely to cause the victim to suffer physical or psychological harm, would be committing a criminal offence.

The definition of abusive behaviour is non-exhaustive and, in any individual case, it is open to the court to conclude that any behaviour that is intended to or is likely to cause the victim physical or psychological harm can be included in the charge. The definition of abusive behaviour would in any given case include financial abuse of the kind that has been described so well by members. In any individual case, it is for Police Scotland and the Crown Office to investigate and prosecute under the new offence.

Earlier this year, when he was speaking to the *Daily Record*, Detective Superintendent Gordon McCreadie from Police Scotland's domestic abuse task force said:

"We have victims who have been made to account for their every movement. There are others who have had their money rationed. None of these forms of abuse would have been prosecuted under previous legislation."

We have worked closely with justice partners to ensure readiness for the implementation of the act. We provided £825,000 of funding to Police Scotland to support the development of training for 14,000 police officers and staff. Police Scotland has also developed a self-completion e-learning package on the new legislation, which has been made available to 22,000 staff. Training for police officers is delivered by SafeLives, and it recognises financial abuse as an interwoven feature of the coercive control that often forms a key part of a pattern of controlling behaviours. We are working with SafeLives and are building on Police Scotland's domestic abuse matters programme to develop an e-learning resource for professionals in housing, social work, health and schools, so that they have a shared understanding of the dynamics of domestic abuse, including financial abuse.

**James Dornan:** I appreciate the final point that the minister made. What serious work will be done to ensure that housing associations, the DWP and local authorities understand the mechanisms when couples split up, whereby the male tends to be the person with control of the finances and the woman tends to be the one who gets the bills?

**Ash Denham:** The member makes an important point. I mentioned the e-learning course that the Government is promoting. I can explore the issue further with officials and come back to the member, if that is acceptable to him.

It is important that victims of controlling behaviour and psychological abuse understand what the change in the law means for them. Only if victims understand that a crime has been committed against them can perpetrators be held to account.

For that reason, we undertook a public awareness campaign, which coincided with the

2018 act coming into force. Members are no doubt aware of the campaign, whose core message was that controlling behaviour is domestic abuse. The campaign highlighted examples of controlling behaviour, and one of the messages was that, if someone's partner is controlling their finances, that is domestic abuse.

It will take time for us to see the full picture of how the new legislation is being used, but I am encouraged by early indications of the use of the new offence. Management information that Police Scotland published shows that 862 new crimes of domestic abuse were recorded in the first six months in which the provisions on the new offence were in force. Last week, the Solicitor General for Scotland informed the Parliament that, between 1 April and 30 November this year, the Crown Office and Procurator Fiscal Service prosecuted 539 charges under the new Domestic Abuse (Scotland) Act 2018. She said that, although most of the prosecutions for domestic abuse are still going through the courts, there have been 101 convictions using the new offence.

There is more to do to protect victims of domestic abuse—that is clear. That is why, in October, the First Minister announced that we will introduce a bill in this session of the Parliament to create new protective barring orders to keep suspected perpetrators away from the home of someone who is at risk of abuse.

The Scottish Government is committed to a fair benefits system that respects all. That is why delivering split payment of universal credit is important; the approach will give everyone access to an independent income and promote equality in the welfare system.

Members rightly highlighted the important role that financial institutions can play in supporting vulnerable people who are experiencing domestic abuse. SafeLives has teamed up with Surviving Economic Abuse, which is a UK-wide charity that is dedicated to tackling economic abuse, to develop and deliver training for Royal Bank of Scotland Group staff, to enable them to understand coercive control and the strong element of economic abuse in that regard, which Margaret Mitchell talked about. I understand that a number of major financial institutions have shown interest in taking action on financial abuse and economic abuse more widely and are working with SafeLives and other specialist organisations, including Surviving Economic Abuse.

This evening's debate has been important. It is clear that Scotland has moved a long way in recent years to improve the justice system's response to domestic abuse, including by reforming the criminal law so that it can better tackle financial abuse. Of course, there is always more that can be done, and we will continue to

seek to protect people who are at risk of domestic abuse.

*Meeting closed at 17:38.*



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